

**Code
of the
Village of
Nelsonville**

COUNTY OF PUTNAM
STATE OF NEW YORK

SERIAL NO. 12
.....

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**OFFICIALS
OF THE
VILLAGE OF
NELSONVILLE**

Village Offices
258 Main Street
Nelsonville, New York 10516
Telephone: (914) 265-2351
FAX: (914) 265-2351

1996

Mayor
EDWARD W. CLEARY

Board of Trustees
JOHN R. MERANTE, JR.
CARL W. TOMPKINS

Village Clerk/Treasurer
Josephine Doherty

Village Attorney
ROBERT C. LUSARDI, ESQ.



PREFACE

The Village of Nelsonville has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the village, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the village. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Trustees ordered the following codification of the village's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation (local laws, ordinances and certain resolutions) of a general and permanent nature enacted by the Board of Trustees of the Village of Nelsonville, including revisions or amendments to existing legislation deemed necessary by the Board of Trustees in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all village legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other village legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

Space has been provided in the Code for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 53 on page 5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Disposition List

The Disposition List is a chronological listing of legislation adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative

Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the village officials is gratefully acknowledged by the editor. The codification of the legislation of the Village of Nelsonville reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this Code will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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PART I

ADMINISTRATIVE LEGISLATION



Chapter 1

GENERAL PROVISIONS

ARTICLE I

Adoption of Code

[A local law making certain substantive changes to existing ordinances and local laws, adopting certain new pieces of legislation and providing for the adoption of this Code as the "Code of the Village of Nelsonville" is presently proposed before the Board of Trustees. Upon final adoption, it will be included here as Article I of this chapter.]

ARTICLE II

Legislation Enacted During Codification

[During the process of codification, certain new pieces of legislation or changes and/or additions to various existing pieces of legislation were approved by the Board of Trustees for inclusion in the Code of the Village of Nelsonville. Such amendments and new enactments are noted in the histories of individual chapters as "... amended (adopted) during codification; see Ch. 1, General Provisions, Art. II." Upon final enactment, a complete enumeration of all chapters and sections in the Code involved in such enactments will be included in this Article, along with specific dates of adoption.]



Chapter 6

ASSESSMENT

ARTICLE I

Termination of Status

- § 6-1. Legislative intent.**
- § 6-2. Cessation as assessing unit.**
- § 6-3. Position of Assessor abolished.**

§ 6-4. Board of Assessment Review abolished.

§ 6-5. Town assessment rolls prevail.

§ 6-6. Copies to be filed.

§ 6-7. Subject to permissive referendum.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 2-13-1989 as L.L. No. 3-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 172.

ARTICLE I

Termination of Status

[Adopted 2-13-1989 as L.L. No. 3-1989]

§ 6-1. Legislative intent.

The intent of the Board of Trustees of the Village of Nelsonville is to implement § 1402, Subdivision 3, of the Real Property Tax Law providing for the voluntary termination of the village's status as an assessing unit, as provided in the Village Law and the Real Property Tax Law. It is also the intent of this chapter to abolish the position of Assessor (or Board of Assessors) and to terminate any and all responsibility as provided by law for the review of the assessments of real property located within the Village of Nelsonville.

§ 6-2. Cessation as assessing unit.

On or after the effective date of this chapter, the Village of Nelsonville shall cease to be an assessing unit.

§ 6-3. Position of Assessor abolished.

The position of Assessor in the Village of Nelsonville is hereby abolished.

§ 6-4. Board of Assessment Review abolished.

The Board of Assessment Review in the Village of Nelsonville is hereby abolished.

§ 6-5. Town assessment rolls prevail.

On or after the effective date of this chapter, taxes in the Village of Nelsonville shall be levied on a copy of the applicable part of the assessment roll of the Town of Philipstown with the taxable status date of such town (or county) controlling for village purposes.

§ 6-6. Copies to be filed.¹

Within five (5) days of the effective date of this chapter, the Board of Trustees of the Village of Nelsonville shall file a copy of such chapter with the Clerk and Assessor (or Board of Assessors) of the Town of Philipstown and with the State Board of Real Property Services.

§ 6-7. Subject to permissive referendum.

This chapter shall take effect immediately upon filing with the Secretary of State; provided, however, that such chapter is subject to a permissive referendum and the Village Clerk shall forthwith proceed to notice such fact and conduct such referendum if required by petition.²

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: As of 3-15-1989, no valid petition requesting such referendum was filed.

Chapter 13

DEFENSE AND INDEMNIFICATION

§ 13-1. Adoption of statute.

§ 13-5. Exceptions.

§ 13-2. Defense to be provided.

§ 13-6. Legal expenses reimbursed.

§ 13-3. Indemnification.

§ 13-7. Conditions.

§ 13-4. Provisions to be additional protection.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 12-2-1988 as L.L. No. 5-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 20.

Officers and employees — See Ch. 32.

§ 13-1. Adoption of statute.

The Village Board hereby adopts § 18 of the New York Public Officers Law and confers the benefit thereof on all village officers and employees.

§ 13-2. Defense to be provided.

The village shall provide for the defense of all officers and employees in any civil action or proceeding arising out of any act or omission, including such actions in which it is alleged that the village officer or employee has violated the civil rights of the petitioner, claimant or plaintiff under Sections 1981 or 1983 of the Federal Civil Rights Act.

§ 13-3. Indemnification.

The village shall indemnify and save harmless such village officers and employees from any judgment or settlement of any claim obtained against such officer or employee. Such legal defense and indemnification shall be provided where the officer or employee, at the time of the alleged acts or omissions, was acting in good faith and within the scope of his public employment, powers or duties.

§ 13-4. Provisions to be additional protection.

The provisions of this chapter shall be in addition to any other statutory grant or protection or local law or resolution providing legal defense and indemnification in civil actions brought against such officers or employees of the village.

§ 13-5. Exceptions.

Except as otherwise provided by law, the duty to indemnify and save harmless provided herein shall not arise where the injury or damage is shown by factual evidence to have resulted from intentional wrongdoing or recklessness on the part of the officer or employee of the village.

§ 13-6. Legal expenses reimbursed.

For the purpose of this chapter indemnification shall include reimbursement for legal fees and expenses incurred by officers or employees who are subject to this chapter.

§ 13-7. Conditions.

The duty to defend or indemnify and save harmless prescribed by this chapter shall be conditioned upon the following:

- A. Delivery by the officer or employee to the Village Attorney or to the Mayor of a written request to provide for the defense of said officer or employee, together with the original summons, complaint, process, notice, demand or pleading, within ten (10) days after service thereof on the officer or employee.
- B. Full cooperation of the officer or employee in the defense of such action or proceeding and in defense of any action or proceeding against the village based upon the same act or omission and in any appeal.

Chapter 20

ETHICS, CODE OF

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| <p>§ 20-1. Rules of ethical conduct; purpose.</p> <p>§ 20-2. Definitions.</p> <p>§ 20-3. Responsibilities of public office.</p> <p>§ 20-4. Dedicated service.</p> <p>§ 20-5. Fair and equal treatment.</p> <p>§ 20-6. Standards of conduct.</p> <p>§ 20-7. Applicability.</p> <p>§ 20-8. Filing of suits or claims unaffected.</p> | <p>§ 20-9. Distribution of Code of Ethics; compliance.</p> <p>§ 20-10. Additional penalties; suspension or removal from office.</p> <p>§ 20-11. Board of Ethics established.</p> <p>§ 20-12. Powers and duties of Board of Ethics.</p> <p>§ 20-13. Rules and regulations of Board of Ethics.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 10-26-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 13.
Officers and employees — See Ch. 32.

Records — See Ch. 42.

§ 20-1. Rules of ethical conduct; purpose.

- A. Pursuant to the provisions of § 806 of the General Municipal Law, the Board of Trustees of the Village of Nelsonville recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. The proper operation of democratic government requires that:
- (1) Public officials and employees be independent, impartial and responsible to the people.
 - (2) Government decisions and policy be made in the proper channels of the governmental structure.
 - (3) Public office not be used for personal gain.
 - (4) The public have confidence in the integrity of its government.
- B. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the village. These rules shall serve as a guide for official conduct of the officers and employees of the village.
- C. The rules of ethical conduct of this Code of Ethics shall not conflict with, but shall be in addition to, any prohibition of Article 18 of the General Municipal Law or any other

general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 20-2. Definitions.

The following terms as used in this chapter shall have the meanings indicated:

INTEREST¹ — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an “interest” in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member or employee.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the village, whether paid or unpaid, including members of the Board of Trustees, any representative board, commission or other agency thereof. No person shall be deemed to be a “municipal officer or employee” solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.²

§ 20-3. Responsibilities of public office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state and to carry out impartially the laws of the nation, state and municipality and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

§ 20-4. Dedicated service.

- A. All officials and employees of the municipality should be loyal to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

§ 20-5. Fair and equal treatment.

- A. Interest in appointments. Canvassing of members of the Board of Trustees, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the Board of Trustees.
- B. Use of public property. No official or employee shall request or permit the use of village-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

§ 20-6. Standards of conduct.

Every officer or employee of the village shall be subject to and abide by the following standards of conduct:

- A. Gifts. He shall not directly or indirectly solicit any gift or accept or receive any gift, whether in the form of money, services, loan, travel, entertainment, hospitality, things or promise or any other form, under circumstances in which it could be reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.
- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further the financial or other private interest of himself or others.
- C. Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Disclosure of interest. To the extent that he knows thereof, any officer or employee of the village, whether paid or unpaid, who participates in the discussion or gives official opinion to the Board of Trustees on any legislation or other matter before the Board of Trustees

shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation or other matter, including any interest arising from close business or political association.

- F. Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the village in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.
- I. Political activity. No appointed official or employee shall use the prestige of his position in behalf of any political party.
- J. No appointive official or employee in the administrative service shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution to any political party, nor shall he be a party to such solicitation by others, nor shall he take an active part in political campaigns for candidates in connection with village elections.
- K. No official or employee, whether elected or appointed, shall promise an appointment to any municipal position as a reward for any political activity.

§ 20-7. Applicability.

When an official or employee has doubt as to the applicability of a provision of this code to a particular situation, he should apply to the Board of Ethics constituted for the implementation of this code for an advisory opinion and be guided by that opinion when given. The official or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicable provision(s) of the code before such advisory decision is made. This code shall be operative in all instances covered by its provisions except if superseded by an applicable provision.

§ 20-8. Filing of suits or claims unaffected.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the village or any agency thereof on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§ 20-9. Distribution of Code of Ethics; compliance.

- A. The Chief Executive Officer of the village shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the village within thirty (30) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.
- B. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code or the enforcement provisions thereof.³

§ 20-10. Additional penalties; suspension or removal from office.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

§ 20-11. Board of Ethics established.

There is hereby established a Board of Ethics consisting of three (3) members to be appointed by the Board of Trustees and who shall serve without compensation and at the pleasure of the Board of Trustees. A majority of such members shall be persons other than officers or employees of the village, but shall include at least one (1) member who is an elected or appointed officer or employee of the village.

§ 20-12. Powers and duties of Board of Ethics.

- A. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall render advisory opinions to the officers and employees of the village with respect to Article 18 of the General Municipal Law and any code of ethics adopted pursuant to such Article. In addition, the Board may make recommendations with respect to the drafting and adoption of a code of ethics or amendments thereto upon request of the Board of Trustees.
- B. The Board of Ethics may adopt rules and regulations relative to the conduct of its business, but may only render advisory opinions subject to these limitations:
 - (1) Requests shall be in writing.
 - (2) Requests or inquiries must originate with a municipal officer or employee.
 - (3) Requests or inquiries must relate to the conflict of interest law or a code of ethics.
 - (4) The opinion must be approved as to legal sufficiency by the Village Attorney.

³ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 20-13. Rules and regulations of Board of Ethics.

Rules and regulations should be adopted by the Board of Ethics to govern the conduct of meetings of the Board. These may include the following:

- A. The selections and terms of office of a Chairman and such other officers as are deemed necessary if such designations have not been made by the governing board.
- B. The number of Board members necessary to consist a quorum.
- C. The number of Board members necessary in affirmative agreement, in addition to the Village Attorney, to render an opinion and the manner in which dissents shall be recorded.
- D. The form and content of records of proceedings and other Board records.
- E. The form and content of a request for an opinion which may include indication that certain municipal officials or employees have been advised of such request.
- F. The form and content of opinions, to include:
 - (1) A statement of facts with such deletions so as to prevent disclosure of the identity of the officer or employee involved.
 - (2) A statement of pertinent law and/or of a code of ethics.
 - (3) A conclusion.
- G. Distribution of opinions.

Chapter 32

OFFICERS AND EMPLOYEES

ARTICLE I

Parking Enforcement Officer

§ 32-1. Creation of position; appointment; authority.

ARTICLE II

Village Historian

§ 32-2. Creation of position; residency requirements.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 12-12-1988 as L.L. No. 7-1988; Art. II, 6-5-1995 as L.L. No. 1-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 13.

Code of Ethics — See Ch. 20.

ARTICLE I

Parking Enforcement Officer

[Adopted 12-12-1988 as L.L. No. 7-1988]

§ 32-1. Creation of position; appointment; authority.

The position of Parking Enforcement Officer be and hereby is created. The Parking Enforcement Officer shall have the authority to enforce the parking regulations of the Village of Nelsonville and, in accordance therewith, be authorized to issue appearance tickets and prosecute parking offenses in the Village of Nelsonville. The Parking Enforcement Officer shall be appointed by the Mayor with the approval of the Board of Trustees.

ARTICLE II

Village Historian

[Adopted 6-5-1995 as L.L. No. 1-1995]

§ 32-2. Creation of position; residency requirements.

The office of Village Historian is hereby created. The office of Village Historian may be filled by any qualified person residing within the County of Putnam.

Chapter 36

PLANNING AND ZONING BOARDS

ARTICLE I **Ad Hoc Appointments**

§ 36-1. Establishment of Ad Hoc Office.

§ 36-2. Powers and duties; causes of missing quorum.

§ 36-3. Term of office.

§ 36-4. Supersession of statute.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 4-9-1990 as L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 168.

Zoning — See Ch. 188.

ARTICLE I **Ad Hoc Appointments** **[Adopted 4-9-1990 as L.L. No. 1-1990]**

§ 36-1. Establishment of Ad Hoc Office.

- A. The Office of Ad Hoc of the Zoning Board of Appeals and Planning Board of the Village of Nelsonville is hereby created.
- B. The Mayor of the Village of Nelsonville is hereby authorized to appoint, subject to the approval of the Board of Trustees, one (1) or more Ad Hoc members to the Planning Board and Zoning Board of Appeals.

§ 36-2. Powers and duties; causes of missing quorum.

- A. The Ad Hoc member shall be entitled to hear, deliberate and vote with respect to any Planning Board or Zoning Board of Appeals matter in the same manner as a regular Board member wherein the Board cannot obtain a quorum solely as a result of one (1) or more of the following causes:
 - (1) A regular Board member(s) indicates, in writing, submitted to such Board, that he will be unable to attend any Board meetings due to illness or other cause for at least forty-five (45) days;
 - (2) A regular Board member(s) disqualifies himself either by oral statement at a regular Board meeting or in writing submitted to the Board; or
 - (3) In case of a vacancy on such Board, until such vacancy can be filled by the Board of Trustees.

- B. The Ad Hoc member appointed as hereinabove set forth shall be authorized to hear, deliberate and vote as hereinabove set forth until such time as the Board is able to obtain a quorum of regular members.

§ 36-3. Term of office.

The term of office of the Ad Hoc member shall be two (2) years.

§ 36-4. Supersession of statute.

It is expressly intended that this chapter shall supersede the provisions of Village Law §§ 7-712 and 7-718 to the extent that such provisions are in conflict with this chapter.

Chapter 39

PROCUREMENT POLICY

§ 39-1. Determination of competitive bidding; documentation.

§ 39-3. Exceptions to competitive bidding requirement.

§ 39-2. Methods of procurement; exceptions.

§ 39-4. When effective; annual review.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 12-9-1991. Amendments noted where applicable.]

§ 39-1. Determination of competitive bidding; documentation.

- A. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year.
- B. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:
 - (1) Purchase contracts under ten thousand dollars (\$10,000.).
 - (2) Public works contracts under twenty thousand dollars (\$20,000.).
 - (3) Emergency purchases.
 - (4) Certain municipal hospital purchases.
 - (5) Goods purchased from agencies for the blind or severely handicapped.
 - (6) Goods purchased from correctional institutions.
 - (7) Purchases under state and county contracts.
 - (8) Surplus and secondhand purchases from another governmental entity.
- C. The decision that a purchase is not subject to competitive bidding will be documented, in writing, by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate.

§ 39-2. Methods of procurement; exceptions.

A. All goods and services will be secured by the use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- (1) Purchase contracts over ten thousand dollars (\$10,000.).
- (2) Public works contracts over twenty thousand dollars (\$20,000.).
- (3) Goods purchased from agencies for the blind or severely handicapped pursuant to § 175-b of the State Finance Law.¹
- (4) Goods purchased from correctional institutions pursuant to § 186 of the Correction Law.
- (5) Purchases under state contracts pursuant to § 104 of the General Municipal Law.
- (6) Purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law
- (7) Purchases pursuant to § 39-3 of this policy.

B. **[Amended 11-6-1995]** The following method of purchase will be used when required by this policy in order to achieve the highest savings:

**Estimated Amount of
Purchase Contract**

Method

\$500 to \$2,999

2 verbal quotations

\$3,000 to \$9,999

3 written/FAX quotations
or written request for
proposals

**Estimated Amount of
Public Works Contract**

Method

\$500 to \$2,999

2 verbal quotations

\$3,000 to \$4,999

2 written/FAX quotations

\$5,000 to \$19,999

3 written/FAX quotations
or written request for
proposals

C. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

¹ Editor's Note: Section 175-b of the State Finance Law was repealed by L. 1995, c. 83, effective April 1, 1995.

- D. Documentation is required of each action taken in connection with each procurement.
- E. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

§ 39-3. Exceptions to competitive bidding requirement.

Pursuant to General Municipal Law § 104-b, Subdivision 2f, this procurement policy may contain circumstances when or types of procurements for which, in the sole discretion of the governing body, the solicitation of alternative proposals or quotations will not be in the best interest of the municipality. In the following circumstances it may not be in the best interests of the Village of Nelsonville to solicit quotations or document the basis for not accepting the lowest bid.

- A. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the Board of Trustees of the Village of Nelsonville shall take into consideration the following guidelines: whether the services are subject to state licensing or testing requirements; whether substantial formal education or training is a necessary prerequisite to the performance of the services; and whether the services require a personal relationship between the individual and municipal officials. Professional or technical services shall include but not be limited to the following: services of an attorney; services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.
- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the residents. This subsection does not preclude alternate proposals if time permits.
- C. Purchases of surplus and secondhand goods from any source. If alternate proposals are required, the Village of Nelsonville is precluded from purchasing surplus and secondhand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

- D. Goods or services under five hundred dollars (\$500.). The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism. **[Amended 11-6-1995]**

§ 39-4. When effective; annual review.

This policy shall go into effect January 1, 1992, and will be reviewed annually.

Chapter 42

RECORDS

ARTICLE I

Retention and Disposition

- § 42-1. Adoption of schedule.**
- § 42-2. Disposition requirements.**

ARTICLE II

Public Access

- § 42-3. Purpose and scope.**

- § 42-4. Records access officer.**
- § 42-5. Location of records.**
- § 42-6. Hours for inspection.**
- § 42-7. Requests for access.**
- § 42-8. Subject matter list.**
- § 42-9. Denial of access; appeals.**
- § 42-10. Fees.**
- § 42-11. Public notice.**

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 1-13-1992; Art. II, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

ARTICLE I

Retention and Disposition

[Adopted 1-13-1992]

§ 42-1. Adoption of schedule.

The Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, and containing legal minimum retention periods of municipal government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 42-2. Disposition requirements.

In accordance with Article 57-A:

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period prescribed therein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.

ARTICLE II
Public Access
[Adopted at time of adoption of Code¹]

§ 42-3. Purpose and scope.

- A. The people's right to know the process of government decisionmaking and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law (§ 84 et seq. of the Public Officers Law), as well as records otherwise available by law.
- D. Any conflict among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 42-4. Records access officer.

- A. The Board of Trustees of the Village of Nelsonville is responsible for ensuring compliance with the regulations herein and designates the Village Clerk and, in his or her absence, the Deputy Village Clerk as records access officer, who shall be responsible for ensuring appropriate agency response to public requests for access to records. The designation of a records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- B. The records access officer shall ensure that personnel:
 - (1) Maintain an up-to-date subject matter list.
 - (2) Assist the requester in identifying requested records, if necessary.
 - (3) Upon locating the records, take one (1) of the following actions:
 - (a) Make records available for inspection.
 - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
 - (4) Upon request for copies of records:
 - (a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 42-10; or
 - (b) Permit the requester to copy those records.
 - (5) Upon request, certify that a record is a true copy.

¹ Editor's Note: See Ch. 1, General Provisions, Art. I.

(6) Upon failure to locate records, certify that:

- (a) The Village of Nelsonville is not the custodian for such records; or
- (b) The records of which the Village of Nelsonville is a custodian cannot be found after diligent search.

§ 42-5. Location of records.

Records shall be available for public inspection and copying at the office of the Village Clerk, 258 Main Street, Nelsonville, New York.

§ 42-6. Hours for inspection.

Requests for public access to records shall be accepted and records produced during all hours that the Clerk's office is regularly open for business.

§ 42-7. Requests for access.

- A. A written request may be required, but oral requests may be accepted.
- B. A response shall be given regarding any request reasonably describing the record or records sought within five (5) business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Wherever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the records sought within five (5) business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within ten (10) business days after the date of acknowledgment of receipt of a request, the request may be construed as a denial of access that may be appealed.

§ 42-8. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in his or her possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

§ 42-9. Denial of access; appeals.

- A. Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 42-7D of this Article, such failure shall also be deemed a denial of access.
- C. The Board of Trustees shall hear appeals for denial of access to records under the Freedom of Information Law. Such appeals shall be made within thirty (30) days of a denial.
- D. The time for deciding an appeal by the body designated to hear appeals shall commence upon receipt of a written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the request for records.
 - (3) The records to which the requester was denied access.
 - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 42-7.
 - (5) The name and return address of the requester.
- E. The body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.
- F. The Board of Trustees shall inform the appellant and the Committee on Open Government of its determination, in writing, within ten (10) business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection E of this section.

§ 42-10. Fees.

- A. There shall be no fee charged for:
 - (1) Inspection of records.
 - (2) Search for records.
 - (3) Any certification pursuant to this Article.
- B. The fee per page for photocopies not exceeding eight and one-half by fourteen (8½ x 14) inches shall be as set forth from time to time by resolution of the Board of Trustees.²
- C. The fee for copies of records not covered by Subsections A and B of this section shall not exceed the actual reproduction cost (which is the average unit cost for copying a record, excluding fixed costs of the village, such as operator salaries).

² Editor's Note: See Ch. A191, Fees.

§ 42-11. Public notice.

A notice containing the title or name and business address of the records access officer and appeals body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept and/or published in a local newspaper of general circulation.



PART II

GENERAL LEGISLATION



Chapter 62

ANIMALS

ARTICLE I Control of Animals

§ 62-1. Prohibited acts; impoundment; fees.

§ 62-2. Penalties for offenses.

ARTICLE II Control of Dogs

§ 62-3. Running at large prohibited.

§ 62-4. License required; seizure.

§ 62-5. Defecation in public areas.

§ 62-6. Noise disturbances prohibited.

§ 62-7. Chasing vehicles prohibited.

§ 62-8. Female dogs.

§ 62-9. Actions upon dog bite.

§ 62-10. Redemption requirements.

§ 62-11. Penalties for offenses.

ARTICLE III Dangerous Wild Animals

§ 62-12. Definitions.

§ 62-13. Possession prohibited.

§ 62-14. Enforcement.

§ 62-15. Exemptions.

§ 62-16. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 12-28-1931 as Ch. III, Sec. 31, of the 1931 Code of Ordinances, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. II, 5-26-1958; Art. III, at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 129.

Fees — See Ch. A191.

ARTICLE I Control of Animals

[Adopted 12-28-1931 as Ch. III, Sec. 31, of the 1931 Code of Ordinances; amended in its entirety at time of adoption of Code¹]

§ 62-1. Prohibited acts; impoundment; fees.

No person shall cause or permit any horses, cows, goats, sheep or other cattle or swine to run at large upon the streets or sidewalks or other public places in said village. In case any enforcing officer shall find any such animal running at large therein, he is hereby authorized and empowered to impound such animals, and if no claim is made thereto by the owner or owners

¹ Editor's Note: See Ch. 1, General Provisions, Art. I.

thereof after notice of such impoundment is given and the fees therefor paid to such enforcing officer, such animals may be disposed of in accordance with Articles 7 and 12 of the Agriculture and Markets Law. Such enforcing officer is authorized to charge and receive for impoundage a fee of two dollars (\$2.) per day or fraction thereof for each animal impounded by him.

§ 62-2. Penalties for offenses.

Except as otherwise provided by Article 7 of the Agriculture and Markets Law, any violation of any of the provisions of this Article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

ARTICLE II
Control of Dogs
[Adopted 5-26-1958]

§ 62-3. Running at large prohibited.²

No person who owns, possesses or harbors a dog shall suffer, permit or allow such dog to run at large upon any of the streets, avenues or public places of the village unless such dog is held upon a leash and is accompanied by some person able to fully control it.

§ 62-4. License required; seizure.

- A. No dog shall be permitted or allowed to run at large anywhere within the corporate limits of the Village of Nelsonville, New York, unless such dog shall be wearing a tag as required by Article 7 of the Agriculture and Markets Law of the State of New York. Such tag shall be procured by the owner from the Town Clerk of the Town of Philipstown, Putnam County, New York, and shall have stamped thereon a number recorded in the office of the Town Clerk and shall have been issued during the current year.
- B. Any dog found running at large anywhere within the village limits of Nelsonville, New York, without such tag or wearing a tag issued during a previous year shall be seized by any enforcing officer and shall be turned over to the Dog Warden of Putnam County, New York. The fact that a dog is without an official license tag or is wearing a tag issued during a previous year is presumptive evidence that the dog is unlicensed.
- C. No action shall be permitted to recover from the Village of Nelsonville the value of or for damages, injuries or for the destruction of any unlicensed dog.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 62-5. Defecation in public areas.

No person who owns, possesses or harbors a dog shall suffer, permit or allow such dog to urinate or defecate at any place in said village except upon the property of such person or in the roadway of a public street between the curbs or curblines.

§ 62-6. Noise disturbances prohibited.

No person who owns, possesses or harbors a dog shall suffer, permit or allow such dog to bark, howl or whine in a loud or prolonged manner which shall unreasonably disturb any other person.

§ 62-7. Chasing vehicles prohibited.

No owner shall permit a dog to run at large which chases vehicles of any kind.

§ 62-8. Female dogs.

- A. No owner or person having the custody of a female dog shall permit it, while in season, either licensed or unlicensed, to run at large in any street or public place in the Village of Nelsonville, New York.
- B. Any peace officer or humane officer finding any female dog in season in a public street or place, whether licensed or unlicensed, shall take such dog into custody and shall turn the dog over to the Humane Society to provide food and shelter for such dog pending action against the owner or the person having the custody thereof as herein provided.

§ 62-9. Actions upon dog bite.

If any dog shall bite any person, the person owning, possessing or harboring such dog shall notify the enforcing agency of the place where such dog is confined and shall not thereafter permit such dog to leave such confinement without being securely muzzled, whether or not it is also held upon a leash, unless and until it has been examined by a duly licensed veterinarian and certified, in writing, by such veterinarian to be free from rabies.

§ 62-10. Redemption requirements.³

During any period in which the Village of Nelsonville shall be entitled, by virtue of any law, regulation or contract, to have dogs found upon any street, avenue or other public place of the village in violation of this Article seized, maintained and disposed of by any other corporation, the person owning, possessing or harboring any dog seized pursuant thereto may, within five (5) days after such seizure, obtain from the Village Clerk a certificate or order for the redemption of such dog upon the payment to said Clerk of the fees paid or payable by the village to said municipal or governmental authority, person, firm or corporation for its or his

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

seizure, maintenance and disposal of such dog in accordance with § 374 of the Agriculture and Markets Law.

§ 62-11. Penalties for offenses.⁴

Except as otherwise provided in the Agriculture and Markets Law, a violation of the Article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment, for each offense.

ARTICLE III
Dangerous Wild Animals
[Adopted at time of adoption of Code⁵]

§ 62-12. Definitions.

As used in this Article, the following words shall have the meanings indicated:

DANGEROUS WILD ANIMAL — Any one (1) of the following:

- Alligators
- Baboons (genus Papio)
- Bears (family Ursidae)
- Cape buffalo (*Synceros caffer*)
- Cheetah (*Acinonyx jubatus*)
- Chimpanzee (genus Pan)
- Clouded leopard (*Felis nebulosa*)
- Constrictor snakes three (3) feet in length or more
- Coyotes (*Canis latrans*)
- Crocodiles (family Crocodylidae)
- Drills and mandrills (genus *Mandrillus*)
- Elephants (family Elephantidae)
- Gavials (family Gavialidae)
- Gelada baboons (genus *Theropithecus*)
- Gibbons (genus *Hylobates*)
- Gorilla (genus *Gorilla*)
- Hippopotamus (family Hippopotamidae)
- Hyenas (family Hyaenidae)
- Jaguar (*Felis onca*)
- Leopard (*Felis pardus*)
- Lion (*Felis leo*)
- Lynxes (genus *Lynx*)
- Margay (*Felis wiedii* and/or *Felis tigrina*)
- Ocelot (*Felis pardalis*)
- Orangutans (genus *Pongo*)

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁵ Editor's Note: See Ch. 1, General Provisions, Art. I.

Ostriches (genus *Struthio*)
Poisonous animals — including rearfanged snakes
Polar bear (*Thalarctos maritimus*)
Pumas (*Felis concolor*), also known as “cougars,” “mountain lions” and “panthers”
Raccoon dog (*Nyctereutes procyonides*)
Red wolf (*Canis niger*)
Rhinoceros (family *Rhinocerotidae*)
Siamangs (genus *Symphalangus*)
Snow leopard (*Felis uncia*)
Tiger (*Felis tigris*)
Wolves (*Canis lupus*)
Any animal the overall appearance of which makes it difficult or impossible to distinguish from a wolf (*Canis lupus*) or a coyote (*Canis latrans*)

§ 62-13. Possession prohibited.

It shall be unlawful for any person, firm or corporation to own, harbor, possess or keep any dangerous wild animal in the Village of Nelsonville.

§ 62-14. Enforcement.

The Zoning Administrative Officer shall have the responsibility and authority to administer and enforce the provisions of this Article.

§ 62-15. Exemptions.

This Article shall not apply to traveling circuses which are present within the village for no more than seven (7) days in any calendar year.

§ 62-16. Penalties for offenses.

Any person, firm or corporation who violates this Article or knowingly permits the violation of the same or any of the provisions hereof shall be deemed to have violated this Article. Any violation of this Article is hereby declared to be a violation, punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by imprisonment for a period not to exceed fifteen (15) days, or by both such fine and imprisonment. Each week's continued violation shall constitute a separate additional violation.



Chapter 70

BINGO

§ 70-1. Authorization for conduct of games.

§ 70-2. Licenses; supervision; inspection.

§ 70-3. Restrictions.

§ 70-4. Sunday games authorized.

§ 70-5. Frequency of games.

§ 70-6. Award of prizes; restriction.

§ 70-7. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 2-10-1958 (passed at referendum 3-18-1958); amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Games of chance — See Ch. 103.

§ 70-1. Authorization for conduct of games.

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon retaining the required license, to conduct bingo games in the Village of Nelsonville, subject to the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the rules and regulations of the State Racing and Wagering Board.

§ 70-2. Licenses; supervision; inspection.

- A. Licenses. The Village Clerk shall accept application for and issue licenses for the conduct of bingo games in accordance with Article 14-H of the General Municipal Law.
- B. Supervision of games. The Village Clerk, with the aid and cooperation of the enforcing agency, shall have and exercise control and supervision over all bingo games held, operated or conducted under any license issued pursuant to this chapter.
- C. Inspection of premises. The Village Clerk or any officer designated by the Village Clerk shall have the right of entry at all times into any premises where any bingo game is being held, operated or conducted or where it is intended that any such bingo game is being held, operated or conducted or any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

§ 70-3. Restrictions.

The restrictions imposed by § 479 of the General Municipal Law shall apply to bingo games in the village, in addition to any further restrictions imposed by this chapter.

§ 70-4. Sunday games authorized.

As authorized by General Municipal Law § 485, bingo games may be held on any day of the week provided for in the license issued pursuant to this chapter.

§ 70-5. Frequency of games.

In addition to the provisions of General Municipal Law § 487, no bingo games shall be held, operated or conducted under any license issued pursuant to this chapter oftener than on six (6) days in any one (1) calendar month.

§ 70-6. Award of prizes; restriction.

- A. All winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played.
- B. No alcoholic beverage shall be offered or given as a prize in any such game.

§ 70-7. Penalties for offenses.

Violations of the provisions of this chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and the rules and regulations of the State Racing and Wagering Board shall be prosecuted as misdemeanors, punishable by a maximum fine of one thousand dollars (\$1,000.) or one (1) year's imprisonment, or both.

Chapter 74

BRUSH, GRASS AND WEEDS

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| <p>§ 74-1. Definitions.</p> <p>§ 74-2. Maintenance of rank vegetation prohibited.</p> <p>§ 74-3. Duty of owner, lessee or occupant.</p> | <p>§ 74-4. Deposit of materials on vacant land.</p> <p>§ 74-5. Removal by village; costs.</p> <p>§ 74-6. Penalties for offenses.</p> |
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[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 8-7-1995 as L.L. No. 6-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 122.
Nuisances — See Ch. 133.

Property maintenance — See Ch. 148.
Trees — See Ch. 175.

§ 74-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer or his duly authorized representative.

PERSONS — Includes one (1) or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

§ 74-2. Maintenance of rank vegetation prohibited.

It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any occupied or unoccupied building lot or plot of land or any part thereof in any developed section of the Village of Nelsonville, to permit or maintain on any such lot or plot of land or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or the middle of the alley, or for ten (10) feet outside of such property line if there is no curb, any growth of weeds, grass or other rank vegetation to a height greater than ten (10) inches on the average or any accumulation of dead grass, weeds or brush. It shall also be unlawful for any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or plot of land in such manner that any part of such ivy, ragweed or other poisonous weed shall extend upon, overhang or border any public place.

§ 74-3. Duty of owner, lessee or occupant.

It shall be the duty of any owner, lessee or occupant of any such lot or plot of land in the Village of Nelsonville to cut and remove or cause to be cut and removed all such weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of § 74-2, provided that cutting and removing such weeds, grass or vegetation at least once in every three (3) weeks between May 15 and September 15 shall be deemed to be a compliance with this chapter.

§ 74-4. Deposit of materials on vacant land.

It shall be unlawful for any person, either as owner, lessee, agent, tenant or otherwise, to throw, cast or deposit or cause or permit to run, drop or remain or to be thrown, cast or deposited in or upon any vacant lot of land or vacant place upon the surface of any lot of land, enclosed or otherwise, within the Village of Nelsonville, New York, except at such place as designated or provided by the Board of Trustees of the Village of Nelsonville, New York, any waste, leaves, brush, hay, weeds, straw, litter, wastepaper, boxes, shavings or any filthy, combustible or flammable materials, rubbish, garbage or dirt whereby a fire hazard, danger or risk is or may be engendered or injuriously effected or whereby the premises of another or the enjoyment of the premises of another are or may be injured, damaged, interfered with or prejudiced. Nothing in this section shall be construed as to prohibit the depositing of manure upon any private property for the cultivation of the same.

§ 74-5. Removal by village; costs.

If the provisions of the foregoing sections are not complied with, the Code Enforcement Officer shall serve written notice, either personally or by mail, upon the owner, lessee or occupant or any person having the care or control of any such lot of land to comply with the provisions of this chapter. If the person upon whom the notice is served fails, neglects or refuses to cut, remove or cause to be cut and removed such weeds, grass, vegetables or rubbish within five (5) days after receipt of such notice or if no person can be found in the Village of Nelsonville who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the Code Enforcement Officer may, following approval of the Board of Trustees, cause such weeds, grass, vegetation or rubbish on such land to be removed, and the actual cost of such removal, plus ten percent (10%) for inspection and other additional costs in connection therewith, shall be certified by the Code Enforcement Officer as to the property on which such weeds, grass, vegetation or rubbish were located and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 74-6. Penalties for offenses.

Any person committing an offense against any of the provisions of this chapter shall be guilty of a violation under the Penal Law and, upon conviction thereof, shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen

(15) days, or both. Each day of continued violation shall constitute a separate additional violation.

Chapter 77

BUILDING CONSTRUCTION AND FIRE PREVENTION

ARTICLE I Fire Prevention

- § 77-1. Applicability.**
- § 77-2. Designation of inspectors; authority.**
- § 77-3. Promulgation of rules; publication.**
- § 77-4. Permits; application; fees.**
- § 77-5. Inspections; liability.**
- § 77-6. Compliance; actions upon violations.**
- § 77-7. Penalties for offenses; appearance tickets.**
- § 77-8. Records.**
- § 77-9. Removal of dangerous buildings or structures; lien.**

ARTICLE II Building Construction

- § 77-10. Applicability.**
- § 77-11. Designation of enforcing officer.**
- § 77-12. Acting enforcing officer.**

- § 77-13. Additional appointments.**
- § 77-14. Restrictions on employees.**
- § 77-15. Powers and duties of Building Inspector.**
- § 77-16. Records; reports.**
- § 77-17. Building permits.**
- § 77-18. Conflict with other provisions.**
- § 77-19. Application for permits.**
- § 77-20. Fees.**
- § 77-21. Issuance of building permit; disapproval.**
- § 77-22. Performance of work; display of permit.**
- § 77-23. Permit revocation.**
- § 77-24. Inspections; liability.**
- § 77-25. Stop orders.**
- § 77-26. Certificate of occupancy.**
- § 77-27. Issuance of certificate.**
- § 77-28. Temporary certificate.**
- § 77-29. Actions upon violations.**
- § 77-30. Penalties for offenses; additional remedies.**

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 5-13-1985 as L.L. No. 1-1985; Art. II, 9-9-1985 as L.L. No. 3-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 74.
Flood damage prevention — See Ch. 95.
Property maintenance — See Ch. 148.

Subdivision of land — See Ch. 168.
Zoning — See Ch. 188.
Fees — See Ch. A191.

ARTICLE I
Fire Prevention
[Adopted 5-13-1985 as L.L. No. 1-1985]

§ 77-1. Applicability.

This Article shall provide the basic method for administration and enforcement of Subchapter C of the New York State Uniform Fire Prevention and Building Code (referred to herein as the "New York State Fire Prevention Code") in the Village of Nelsonville and shall establish powers, duties and responsibilities in connection therewith.

§ 77-2. Designation of inspectors; authority.

There is hereby designated the Building Inspector or Fire Inspector to administer and enforce the New York State Fire Prevention Code within the Village of Nelsonville.

§ 77-3. Promulgation of rules; publication.

- A. The Building Inspector or Fire Inspector may adopt rules and regulations for the administration and enforcement of the New York State Fire Prevention Code. Such rules and regulations shall not conflict with the New York State Fire Prevention Code, this Article or any other provision of law.
- B. The Building Inspector or Fire Inspector shall publish all rules and regulations at least fifteen (15) days prior to the effective date thereof in a newspaper of general circulation within the Village of Nelsonville.

§ 77-4. Permits; application; fees.

- A. Upon payment of a fee as prescribed in the schedule of fees adopted by the Village Board of Trustees,¹ permits shall be issued by and bear the name and signature of the Building Inspector or Fire Inspector and shall specify the:
 - (1) Activity or operation for which the permit is issued.
 - (2) Address or location where the activity or operation is to be conducted.
 - (3) Name and address of the permittee.
 - (4) Permit number and date of issuance.
 - (5) Period of permit validity.
 - (6) Amount of the permit fee.
- B. Permits shall not be transferable, and any change in activity, operation, location, ownership or uses all require a new permit.

¹ Editor's Note: See Ch. A191, Fees.

- C. Permits shall continue until revoked or for a period of time designated at the time of issuance. An extension of the permit time period may be granted, provided that a satisfactory reason can be shown for failure to start or complete the work or activity authorized within the required time period.
- D. Permits shall be obtained for the following:
- (1) Acetylene generators. To operate an acetylene generator having a calcium carbide capacity exceeding five (5) pounds.
 - (2) Automobile tire rebuilding plants. To operate an automobile tire rebuilding plant.
 - (3) Automobile wrecking yards. To operate an automobile wrecking yard.
 - (4) Bowling establishments. For bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.
 - (5) Cellulose nitrate motion-picture film. To store, keep or have on hand more than twenty-five (25) pounds of cellulose nitrate motion-picture film.
 - (6) Cellulose nitrate plastics (pyroxylin).
 - (a) To store, keep or have on hand more than twenty-five (25) pounds of cellulose nitrate plastics (pyroxylin).
 - (b) To manufacture articles of cellulose nitrate plastics (pyroxylin) which shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
 - (7) Combustible fibers. To store, handle or use combustible fibers in quantities in excess of one hundred (100) cubic feet, except agricultural products on a farm.
 - (8) Combustible materials. To store combustible materials, including but not limited to empty combustible packing cases, boxes, barrels or similar containers, rubber tires, baled cotton, rubber, cork or other similar materials, in excess of one thousand five hundred (1,500) cubic feet gross volume.
 - (9) Compressed gases.
 - (a) To store, handle or use at normal temperatures and pressures more than:
 - [1] Two thousand (2,000) cubic feet of flammable compressed gas; or
 - [2] Six thousand (6,000) cubic feet of nonflammable compressed gas.
 - (b) To store, handle or use any quantity of liquefied natural or hydrogen gas.
 - (10) Cryogenics. To store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
 - (a) Production, sale or storage of cryogenic fluids.
 - (b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of ten (10) gallons.

- (11) Dry-cleaning plants. To use in excess of ten (10) gallons of solvents or cleaning agents classified as flammable or combustible.
- (12) Dust-producing plants. To operate any grain elevator, flour, starch or feed mill, woodworking plant or plant pulverizing aluminum, coal, cocoa, plastics, magnesium, spices, sugar, sulfur or other materials producing explosive-potential dust.
- (13) Explosive ammunition and blasting agents.
 - (a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents.
 - (b) To use explosives or blasting agents.
 - (c) To operate a terminal for handling explosives or blasting agents.
- (14) Flammable and combustible liquids.
 - (a) To store, handle or use flammable liquids in excess of six and one-half (6½) gallons inside dwellings; or in excess of ten (10) gallons inside any other building or other occupancy; or in excess of twenty (20) gallons outside of any building. This provision shall not apply to:
 - [1] Liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant.
 - [2] Paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes.
 - (b) To store, handle or use combustible liquids in excess of ten (10) gallons inside a building; or in excess of twenty-five (25) gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil-burning equipment.
 - (c) For the initial installation of an oil burner and a fuel-oil tank used in connection therewith. A permit shall be required for the replacement of a fuel-oil tank connected to an oil burner.
 - (d) For processing, storing, selling, blending or refining of flammable or combustible liquids.
- (15) Flammable finishing. For spraying, coating or dipping operations utilizing flammable or combustible liquids.
- (16) Fruit-ripening process. To conduct a fruit-ripening process using ethylene gas.
- (17) Fumigation and thermal insecticidal fogging. To conduct fumigation or thermal insecticidal fogging operations.
- (18) Hazardous chemicals.
 - (a) To store, handle or use more than fifty-five (55) gallons of corrosive liquids; or more than fifty (50) pounds of oxidizing materials; or more than ten (10) pounds of organic peroxides; or more than fifty (50) pounds of nitromethane; or five hundred (500) pounds or more of ammonium nitrate, ammonium nitrate

fertilizers and fertilizer mixtures containing sixty percent (60%) or more ammonium or any amount of toxic material or poisonous gas.

- (b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.
- (19) Junkyards. To operate a junkyard.
- (20) Liquefied petroleum gas. For each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over two thousand (2,000) gallons water capacity, and for each permanent installation, irrespective of the size of the containers, made at buildings in which twenty (20) or more persons congregate for civic, political, educational, religious, social or recreational purposes. Installers shall maintain a record of all installations and replacement of portable cylinders and have it available for inspection.
- (21) Lumberyards. To operate or maintain a lumberyard.
- (22) Magnesium. For melting, casting, heat treating, machining or grinding of more than ten (10) pounds of magnesium per working day.
- (23) Matches.
 - (a) To manufacture matches.
 - (b) To store matches in excess of twenty-five (25) cases. [NOTE: One (1) case equals one (1) matchman's gross of fourteen thousand four hundred (14,400) matches.]
- (24) Organic coatings. To perform organic coating operations utilizing more than one (1) gallon of organic coating on any working day.
- (25) Ovens and furnaces. To operate industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding one thousand four hundred degrees Fahrenheit (1,400° F.), which are heated with oil or gas fuel or which, during operation, contain flammable vapors from the material in the oven or catalytic combustion system.
- (26) Places of assembly. To maintain, operate or use a place of assembly as defined in Part 606 of Title 9 of the Rules and Regulations of the Secretary of State.
- (27) Service stations and repair garages. To operate a service station or repair garage or other establishment selling fuel oil, gasoline or kerosene.
- (28) Welding and cutting. To operate a welding and cutting business. A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by the permit holder.
- E. Consolidated permits. When more than one (1) permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit, for specific hazardous materials or operations, shall not invalidate the remainder.

- F. Location of permits. Permits may be suspended or revoked when it is determined there is a violation of a condition under which the permit was issued or there has been misrepresentation or falsification of material facts in connection with the permit application or a condition of the permit.
- G. Nothing contained herein shall be deemed to authorize a use which is not permitted under Chapter 188, Zoning.

§ 77-5. Inspections; liability.

- A. The Building Inspector or Fire Inspector duly appointed by the Village Board may conduct periodic inspections for compliance with the provisions of the New York State Fire Prevention Code, the rules and regulations of the Secretary of State and as otherwise authorized by law. Such inspections may be made at any reasonable time.
- B. Where a search warrant is required by law, the Building Inspector or Fire Inspector may apply for such warrant to make an inspection to any court of competent jurisdiction.
- C. This code shall not be construed to hold the Village Board of the Village of Nelsonville, the Village of Nelsonville, any officers or employees of the Village of Nelsonville or any Fire Inspectors appointed under this Article and Fire Prevention Code responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or the permit issued as herein provided or by reason of the approval or disapproval of any equipment.

§ 77-6. Compliance; actions upon violations.

- A. A person owning, operating, occupying or maintaining property or premises within the scope of the New York State Fire Prevention Code or this Article shall comply with all the provisions of the State Fire Prevention Code, this Article and all orders, notices, rules, regulations or determinations issued in connection therewith.
- B. Whenever the Building Inspector or Fire Inspector finds that there has been a violation of the New York State Fire Prevention Code, this Article or any rule or regulation adopted pursuant to this Article, a violation order shall be issued to the person or persons responsible.
- C. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation and remedial action to be taken, shall provide a reasonable time limit for compliance, not to exceed thirty (30) days, and shall state the time within which an appeal may be taken.
- D. Violation orders may be served by personal service, by mailing by registered or certified mail or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- E. In case the owner, lessor, occupant, operator, maintainer or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation within the time specified

in the violation order, the Building Inspector or Fire Inspector shall take the appropriate legal action of the Village of Nelsonville.

§ 77-7. Penalties for offenses; appearance tickets.

- A. Failure to comply with any provision of the New York State Fire Prevention Code, this Article, rules or regulations adopted pursuant to this Article or a violation order shall be deemed a misdemeanor, and the violator shall be liable for a fine of not more than one thousand dollars (\$1,000.) or imprisonment not to exceed one (1) year, or both, and each day such violation continues shall constitute a separate violation.²
- B. An action or proceeding in the name of the Village of Nelsonville may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the New York State Fire Prevention Code, this Article, rule or regulation adopted pursuant to this Article or a violation order or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law. The Building Inspector or Fire Inspector is authorized to issue an appearance ticket in connection with any violation of the New York State Fire Prevention Code.

§ 77-8. Records.

The Building Inspector or Fire Inspector shall keep official records of all permits, inspection reports, recommendations, complaints and violation orders.

§ 77-9. Removal of dangerous buildings or structures; lien.

- A. A building or structure or part thereof which is an imminent danger to life and safety as a result of structural instability, explosion or other hazardous situations is hereby declared to be a public nuisance.
- B. Whenever the Building Inspector or Fire Inspector finds a building or structure or part thereof to be an imminent danger to life and safety of the public as a result of structural instability, explosion or other hazardous situations, the Building Inspector or Fire Inspector may cause it to be demolished and removed or may cause work to be done in and about the building or structure as may be necessary to remove the danger.
- C. The Building Inspector or Fire Inspector may require the occupants of any such building or structure or part thereof to vacate the premises forthwith. No person shall use or occupy such building or structure or part thereof until it is made safe.
- D. No person shall enter premises which have been ordered vacated unless authorized to perform inspections or repairs or to demolish and remove such building or structure or part thereof.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- E. All costs and expenses incurred by the Village of Nelsonville in connection with any work done to remove the danger or in connection with the demolition and removal of any such building or structure, together with a ten-percent surcharge, shall be assessed against the land on which such building or structure is located, and a bill for such expense shall be presented to the owner of the property, or, if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay for such expenses within ten (10) days after the bill is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector or Fire Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner thereof, with the Assessor, who shall in the preparation of the next assessment roll assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as provided by law for the collection and enforcement of real property taxes in the Village of Nelsonville.³

ARTICLE II
Building Construction
[Adopted 9-9-1985 as L.L. No. 3-1985]

§ 77-10. Applicability.

This Article shall provide the basic method for the administration and enforcement of Subchapters A, B, D, E, F, G and L of the New York State Uniform Fire Prevention and Building Code in the Village of Nelsonville and shall establish powers, duties and responsibilities in connection therewith.

§ 77-11. Designation of enforcing officer.

There is hereby designated in the Village of Nelsonville a public official to be known as the "Building Inspector," who shall be appointed by the Mayor with the approval of the Board of Trustees at a compensation to be fixed by it.

§ 77-12. Acting enforcing officer.

In the absence of the Building Inspector or in the case of his inability to act for any reason, the Mayor shall have the power, with the consent of the Board of Trustees, to designate a person to act in behalf of the Building Inspector and to exercise all the powers conferred upon him by this Article.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 77-13. Additional appointments.

The Mayor, with the approval of the Board of Trustees, may appoint one (1) assistant building inspector or more, as the need may appear, to act under the supervision and direction of the Building Inspector and to exercise any portion of the powers and duties of the Building Inspector as directed by him. The compensation of such assistant building inspectors shall be fixed by the Village Board.

§ 77-14. Restrictions on employees.

The building inspectors and any officers and employees of the Building Department shall not engage in any activity inconsistent with their duties or with the interests of the Building Department; nor shall they during the term of their employment be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for or the supervision of the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications thereof within the Village of Nelsonville, excepting that this provision shall not prohibit any employee from engaging in any such activities with regard to any building or structure owned by him for his own personal use and occupancy or for the use and occupancy of members of his immediate family and not constructed or altered for sale.

§ 77-15. Powers and duties of Building Inspector.

- A. Except as otherwise specifically provided by law, rule or regulation or except as herein otherwise provided, the Building Inspector shall administer and enforce all of the provisions of laws, rules and regulations applicable to the construction, alteration, maintenance, condition and repair of buildings and structures and the installation and use of materials and equipment therein and the location, use and occupancy thereof.
- B. He shall promulgate rules and regulations subject to the approval of the Village Board to secure the intent and purposes of this Article and a proper enforcement of the laws, rules and regulations governing building plans, specifications, construction, maintenance, condition, alteration or repairs.
- C. He shall receive applications, approve plans and specifications and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved or such permits have been issued for the purpose of ensuring compliance with laws, rules and regulations governing building construction, maintenance, condition, repairs or alterations.
- D. He shall issue, in writing, all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, rules and regulations, and such notices or orders may be served upon the property owner or his agent personally or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction, repair, maintenance or alteration of such building and by posting the same upon a conspicuous portion of the premises to which the notice applies. He shall make all

inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from building inspectors or other employees of the Building Department or from generally recognized and authoritative service and inspection bureaus or agencies, provided that the same are certified by a responsible official thereof.

- E. Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, rules and regulations covering building construction, maintenance, repair, condition or alteration, he may, in his discretion, accept and rely upon written report of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service and inspection bureaus or agencies.
- F. He shall issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code, which such certificate shall certify that the building conforms to the requirements of the New York State Uniform Fire Prevention and Building Code.

§ 77-16. Records; reports.

- A. The Building Inspector shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by him with the consent of the Village Board and notices and orders issued. All such records shall be public records open to public inspection during normal business hours.
- B. The Building Inspector shall annually submit to the Board a written report and summary of all business conducted by the Building Department, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

§ 77-17. Building permits.

Building permits shall be required for any work which must conform to the New York State Uniform Fire Prevention and Building Code. Building permits shall not be required for necessary repairs and alterations which do not materially affect structural features or fire safety standards.

§ 77-18. Conflict with other provisions.

Where there is a conflict between this Article and Chapter 188, Zoning (L.L. No. 1-1984), the requirements of Chapter 188, Zoning, shall apply.

§ 77-19. Application for permits.

- A. Applications for a building permit shall be made to the Building Inspector on forms provided by him and shall contain the following information:

- (1) A description of the land on which the proposed work is to be done.
 - (2) A statement of the use or occupancy of all parts of the land and the proposed building or structure.
 - (3) The valuation of the proposed work.
 - (4) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers, if any of them are corporations, and the name and address of the owner's authorized agent, if any.
 - (5) A brief description of the nature of the proposed work, together with copies of any necessary Department of Health, Department of Environmental Conservation and other permits authorizing such work.
 - (6) Such other information as may reasonably be required by the Building Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, rules and regulations.
- B. The application shall be signed by the owner or his authorized agent. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application; and the affidavit shall contain a statement that the owner authorizes the applicant to consent to permit the Building Inspector and any officer or employee of the Building Department to enter upon the premises without a search warrant in the manner prescribed herein.
- C. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys and, where required by the Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by §§ 7202 or 7302, as amended, of Articles 145 or 147 of the Education Law of the State of New York, the seal of a licensed architect or a licensed professional engineer. The Building Inspector may waive the requirements for filing plans and specifications for minor construction and issue a building permit so stating.
- D. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Building Inspector and approval received from the Building Inspector prior to the commencement of such change of work.
- E. The application shall contain any additional requirements set forth in Chapter 188, Zoning.

§ 77-20. Fees.⁴

- A. Upon the filing of an application for a building permit, the fees as approved by the Village Board from time to time shall be payable.
- B. All fees as set forth above are nonrefundable.

§ 77-21. Issuance of building permit; disapproval.

- A. The Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application within ten (10) days from the date of submission of the application.
- B. Upon approval of the application and upon receipt of the filing fees therefor, the Building Inspector shall issue a building permit to the applicant upon the form prescribed by the Building Inspector and shall affix his signature or cause his signature to be affixed thereto.
- C. Upon approval of the application, all sets of plans and specifications shall be endorsed with the word "approved." One (1) set of such approved plans and specifications shall be retained in the files of the Building Department, and the other set shall be returned to the applicant, together with the building permit, and shall be kept by the applicant at the building site open to inspection by the Building Inspector or his authorized representative at all reasonable times.
- D. If the application, together with plans, specifications and other documents filed therewith, describe proposed work which does not conform to all of the requirements of the applicable building regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Building Inspector shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant, in writing.

§ 77-22. Performance of work; display of permit.

- A. A building permit shall be effective to authorize the commencing of work for a period of one (1) year after the date of its issuance. For good cause, the Building Inspector may allow a maximum of two (2) extensions for periods not exceeding three (3) months each. All work shall conform to the approved applications, plans and specifications and shall be in accordance with applicable building laws, rules and regulations.
- B. Building permits shall be prominently displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.

§ 77-23. Permit revocation.

The Building Inspector may revoke a building permit theretofore issued in the following instances:

⁴ Editor's Note: See Ch. A191, Fees.

- A. Where he finds that there has been any false statement or misrepresentation as to a material fact in the applications, plans or specifications on which the building permit was based.
- B. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
- C. Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.

§ 77-24. Inspections; liability.

- A. The Building Inspector, where a building permit has been issued, at such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air-conditioning systems, fire-protection and detection systems and exit features, may conduct such inspections as are necessary to determine compliance with the New York State Uniform Fire Prevention and Building Code.
- B. The Building Inspector and duly appointed Fire Inspector shall be entitled to conduct inspections of the premises prior to the issuance of a certificate of occupancy or a certificate of compliance.
- C. The Building Inspector and duly appointed Fire Inspector shall be entitled to conduct fire safety inspections of areas of public assembly defined in Part 606 of Title 9 of the Official Compilation of Codes, Rules and Regulations at least once per year.
- D. The Building Inspector and duly appointed Fire Inspector shall be entitled to conduct fire safety inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions.
- E. The Building Inspector shall be entitled to conduct inspections in response to bona fide complaints regarding conditions or activities allegedly failing to comply with the New York State Uniform Fire Prevention and Building Code.
- F. This code shall not be construed to hold the Village Board of the Village of Nelsonville, any officers or employees of the Village of Nelsonville or any fire inspector appointed under this Article and the Fire Prevention Code responsible for any damage to persons or property by reason of the inspection or reinspection authorized herein or failure to inspect or reinspect or the permit issued as herein provided or by reason of the approval or disapproval of any equipment.

§ 77-25. Stop orders.

Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being performed in violation of the provisions of the applicable building laws, rules or regulations or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued or in an unsafe and dangerous

manner, he shall notify the owner of the property or the owner's agent to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building or premises where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for permission for the construction of such building.

§ 77-26. Certificate of occupancy.

- A. No building or structure hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Building Inspector.
- B. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied unless a certificate of occupancy shall have been issued by the Building Inspector.
- C. No substantial change shall be made in the general nature of the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued by the Building Inspector.
- D. The owner or his agent shall make application for a certificate of occupancy. In addition, the applicants shall comply with the requirements of Chapter 188, Zoning, in connection with applications for certificates of occupancy where applicable.

§ 77-27. Issuance of certificate.

- A. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, rules and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall issue a certificate of occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the Building Inspector shall not issue a certificate and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.
- B. A certificate of occupancy shall be issued, where appropriate, within ten (10) days after written application therefor is made.
- C. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the applicable building laws, rules and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

§ 77-28. Temporary certificate.

Upon request, the Building Inspector may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the building permit shall have been completed, provided that such portion or portions as have been completed may be occupied safely without endangering life or the public health or welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good cause, the Building Inspector may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

§ 77-29. Actions upon violations.

- A. A person operating, owning, occupying or maintaining property or premises within the scope of the New York State Uniform Fire Prevention and Building Code or this Article shall comply with all the provisions of the New York State Uniform Fire Prevention and Building Code, this Article and all orders, notices, rules, regulations or determinations issued in connection therewith.
- B. Whenever the Building Inspector finds that there has been a violation of the New York State Uniform Fire Prevention and Building Code, this Article or any rule or regulation adopted pursuant to this Article, a violation order shall be issued to the person or persons responsible.
- C. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation and remedial action to be taken, shall provide a reasonable time limit for compliance, not to exceed thirty (30) days, and shall state the time within which an appeal may be taken.
- D. Violation orders may be served by personal service by mailing by registered or certified mail or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- E. In case the owner, lessor, occupant, operator, maintainer, agent or any of them shall fail, neglect or refuse to eliminate, remove or abate the violation within the time specified in the violation order, the Building Inspector shall take the appropriate legal action of the Village of Nelsonville.

§ 77-30. Penalties for offenses; additional remedies.

- A. It shall be unlawful for any person, firm or corporation to construct, use, maintain, alter, repair, move, equip or occupy any building or structure or portion thereof in violation of any provision of law, as well as any regulation or rule promulgated by the Building Inspector in accordance with applicable laws, or to fail in any manner to comply with a notice, stop order, directive or order of the Building Inspector or to construct, alter, use, maintain or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

- B. Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this Article, rules and regulations adopted pursuant to this Article or a stop order or violation order duly issued by the Building Inspector shall be deemed a misdemeanor, and the violator shall be liable for a fine of not more than one thousand dollars (\$1,000.) or imprisonment not to exceed one (1) year, or both, and each day such violation continues shall constitute a separate violation.⁵
- C. An action or proceeding in the name of the Village of Nelsonville may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the New York State Uniform Fire Prevention and Building Code, this Article, rule or regulation adopted pursuant to this Article or a violation order or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedies shall be in addition to penalties otherwise prescribed by law. The Building Inspector is authorized to issue an appearance ticket in connection with any violation of the New York State Uniform Fire Prevention and Building Code or this Article.

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 95

FLOOD DAMAGE PREVENTION

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| § 95-1. Findings. | § 95-10. Designation of local administrator. |
| § 95-2. Purpose. | § 95-11. Development permit. |
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| § 95-4. Definitions and word usage. | § 95-13. General standards. |
| § 95-5. Applicability. | § 95-14. Specific standards. |
| § 95-6. Basis for establishing areas of special flood hazard. | § 95-15. Floodways. |
| § 95-7. Interpretation; conflict with other provisions. | § 95-16. Appeals board. |
| § 95-8. Penalties for offenses. | § 95-17. Conditions for variances. |
| § 95-9. Warning; disclaimer of liability. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 4-13-1987 as L.L. No. 1-1987. Amendments noted where applicable.]

GENERAL REFERENCES

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| Building construction and fire prevention — See Ch. 77. | Subdivision of land — See Ch. 168. |
| Freshwater wetlands — See Ch. 99. | Water and sewers — See Ch. 184. |
| Streets and sidewalks — See Ch. 165. | Zoning — See Ch. 188. |

§ 95-1. Findings.

The Village Board of the Village of Nelsonville finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Village of Nelsonville and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 95-2. Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify and maintain participation in the National Flood Insurance Program.

§ 95-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health.
- B. Minimize expenditure of public money for costly flood control projects.
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. Minimize prolonged business interruptions.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard.
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. Provide that developers are notified that property is in an area of special flood hazard.
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 95-4. Definitions and word usage.

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
- B. The following terms used in this chapter shall have the meanings indicated:

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a city subject to a one-percent or greater chance of flooding in any given year. This area may be

designated as Zone A, AE, AH, AO, A1 – 99, V, VO, VE or V1 – 30. It is also commonly referred to as the “base floodplain” or “one-hundred-year floodplain.”

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage.

CELLAR — See “basement.”

COASTAL HIGH-HAZARD AREA — The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1 – 30, VE, VO or V.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The “FBFM” delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — See “regulatory floodway.”

FLOOR — The top surface of an enclosed area in a building (including the basement), i.e., the top of a slab in concrete slab construction or the top of wood flooring in wood frame construction.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

LOWEST FLOOR — The lowest level, including the basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement or cellar is not considered a building’s “lowest floor,” provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

MOBILE HOME — See “manufactured home.”

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

ONE-HUNDRED-YEAR FLOOD — See “base flood.”

PRINCIPALLY ABOVE GROUND — At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as

determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 95-12B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages and sheds), storage trailers and building materials.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure, excluding land values, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

§ 95-5. Applicability.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the Village of Nelsonville.

§ 95-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM), dated September 10, 1984, is hereby adopted and declared to be a part of this chapter. The FHBM or FIRM is on file at the offices of the Village of Nelsonville.

§ 95-7. Interpretation; conflict with other provisions.

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or laws, the most restrictive or that imposing the highest standards shall govern.

§ 95-8. Penalties for offenses.

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Village of Nelsonville from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 95-16 and 95-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 95-9. Warning; disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Village of Nelsonville, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 95-10. Designation of local administrator.

The Building Inspector is hereby appointed the local administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 95-11. Development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 95-6. Application for a development permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

A. Application stage. The following information is required where applicable:

- (1) The elevation in relation to mean sea level of the proposed lowest floor (including the basement or cellar) of all structures.
- (2) The elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 95-13C(1).
- (4) A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 95-14.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the as-built elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certificate shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

§ 95-12. Powers and duties of local administrator.

The duties of the local administrator shall include but not be limited to:

A. Permit application review. The local administrator shall:

- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.
 - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (4) Review all development permits for compliance with the provisions of § 95-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 95-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 95-13D(4), in order to administer § 95-14, Specific standards, and § 95-15, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved structures and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
 - (b) Maintain the floodproofing certifications required in §§ 95-13 and 95-14.
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances, when granted, and certificates of compliance.
- D. Alteration of watercourses. The local administrator shall:
- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flooding capacity is not diminished.
- E. Interpretation of FHBM, FIRM or FBFM boundaries.
- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

- (2) Base flood elevation data established pursuant to § 95-6 and or Subsection B of this section, when available, shall be used to accurately delineate the areas of special flood hazard.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 95-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 95-8 of this chapter.

G. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of this chapter.

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirement of either the development permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a certificate of compliance issued by the local administrator.
- (3) All certificates shall be based upon the inspections conducted subject to Subsection G above and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 95-13. General standards.

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist

flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

- (1) Electrical, heating, ventilation, piping, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in § 95-12A(3). This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 95-12B or Subsection D(4) above and no floodway has been

determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 95-12B, the requirements of § 95-15, Floodways, shall apply.

§ 95-14. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 95-6, Basis for establishing areas of special flood hazard, and § 95-12B, Use of other base flood and floodway data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any resident structure shall:

- (1) Have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation or be floodproofed to the base flood level.

- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be required.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.

- (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (2) If the structure is to be floodproofed:
 - (a) A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (b) A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
 - (3) The local administrator shall maintain on record a copy of all such certificates noted in this section.
- C. Construction standards for areas of special flood hazard without base flood elevations.
- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including the basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.
 - (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be required.
 - (b) The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 95-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see § 95-4, Definitions and word usage). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 95-12B, all encroachments including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that

such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 95-16. Appeals board.

- A. The Zoning Board of Appeals, as established by the Village of Nelsonville, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 95-17. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 95-16D(1) through (12) have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this chapter.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
- (1) The criteria of Subsections A, D, E and F of this section are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Chapter 99

FRESHWATER WETLANDS

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[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 3-29-1988 as L.L. No. 1-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 95.
Pollution — See Ch. 145.

Water and sewers — See Ch. 184.
Zoning — See Ch. 188.

ARTICLE I

General Provisions

§ 99-1. Policy.

It is declared to be the public policy of the Village of Nelsonville to preserve, protect and conserve freshwater wetlands and the benefits derived therefrom, to prevent the despoliation and destruction of wetlands and watercourses and to regulate use and development of such wetlands and watercourses in order to secure the natural benefits therefrom for the protection of public health and safety and consistent with the general welfare and the beneficial economic, social and conservation development of the village.

§ 99-2. Findings.

The following findings are made:

- A. Wetlands and watercourses in the Village of Nelsonville are invaluable resources for flood protection, wildlife habitat, open space and water resources.
- B. Wetlands and watercourses in the village have been or are in jeopardy of being lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such wetlands and watercourses.
- C. Recurrent flooding of areas of the village, aggravated or caused by the loss of wetlands or alteration of watercourses, has serious effects upon natural ecosystems and presents serious hazards to the health, safety, welfare and property of the people of the village, within and outside such wetlands and watercourses, including loss of life, loss and damage to private and public property, disruption of lives and livelihoods, interruption of commerce, transportation, communication and governmental services and unsanitary and unhealthful living and environmental conditions.
- D. Wetlands and watercourses conservation is a matter of concern to the entire village, and the establishment of preservation, protection and conservation practices is essential to the public health, safety and welfare since acts on wetlands and watercourses in one (1) location affect persons and property in other locations.
- E. Wetlands and watercourses overlap many properties and neighborhoods, and experience has demonstrated that effective wetlands and watercourses protection requires uniformity of preservation, protection and conservation throughout the village.
- F. Loss, despoliation or impairment of wetlands deprives people of the village of some or all of the many and multiple benefits to be derived from wetlands, such as the following:
 - (1) Flood and stormwater runoff control by hydrologic absorption and storage capacity of wetlands.
 - (2) Wildlife habitat, by providing for breeding, nesting and feeding grounds and cover for many forms of wildlife, wildfowl and shorebirds, including migratory wildfowl and rare species.
 - (3) Protection of subsurface water resources and provision for valuable watersheds and recharging of groundwater supplies.
 - (4) Recreation, by providing resource areas for hunting, fishing, hiking, bird watching, photography, camping and other uses.
 - (5) Pollution treatment, by serving as biological and chemical oxidation basins.
 - (6) Erosion control, by serving as sedimentation areas and filtering basins, absorbing silt and organic matter and protecting channels and water bodies.
 - (7) Education and scientific research, by providing outdoor biophysical laboratories, living classroom and resources for training and education.
 - (8) Open space and aesthetic appreciation.

- (9) Sources of nutrients in freshwater food cycles and the nursery ground and sanctuary for fish.
 - (10) Vegetation, by providing temperature modification, purification of the air and natural products for harvest.
- G. Improper use and the despoliation or impairment of watercourses deprives people of the benefits thereof, such as the following:
- (1) Surface drainage free from erosion and sedimentation and with capacity to carry runoff without danger of flooding.
 - (2) Fresh waters for potable water supply and for swimming, fishing and other recreation.
 - (3) Continuity of water flows and supplies throughout the year.
- H. Regulation of wetlands and watercourses is consistent with the legitimate interests of landowners to graze and water livestock, make reasonable use of water resources, harvest natural products of the wetlands, selectively cut timber and otherwise engage in the use of land for natural production.

§ 99-3. Definitions.

Certain terms used in this chapter are defined and explained as follows:

CONTROLLED AREA — All wetlands and the area surrounding the same for a distance of one hundred (100) feet from such wetland; and all watercourses and all adjacent contributing surfaces within fifty (50) feet of each side of the watercourse.

PERSON — Any person, corporation, firm, partnership, association, trust, estate, individual, joint venture and any unit of government, agency or subdivision thereof that is subject to this chapter.

PLANNING BOARD — The Planning Board of the Village of Nelsonville, duly appointed by the Village Board under § 7-718 of the Village Law.

POLLUTION — In addition to its usual meaning, the presence in the environment of man-induced conditions or contaminants in quantities or with characteristics which are or may be injurious to human, plant, wildlife, animal forms of life or property.

VILLAGE BOARD — The Board of Trustees of the Village of Nelsonville.

WATERCOURSE — Certain wetlands as defined in this section and the following:

- A. Rivers, streams, brooks and waterways which are delineated on the current edition of the United States Department of Interior Geological Survey, 7.5 Minute Series (Topographic) maps covering the Village of Nelsonville (West Point quadrangle).
- B. Any other streams, brooks and waterways containing running water more than six (6) months a year, and any additional streams, brooks and waterways which are delineated on the map specified in § 99-4.

- C. Lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, which are fed by or have surface discharge to another wetland or watercourse.

WETLANDS [Amended 1-5-1989 by L.L. No. 1-1989] — Lands and waters covering one (1) acre or more and consisting of the following:

- A. Soil types which are poorly drained, very poorly drained, alluvial and floodplain soils as defined by the United States Department of Agriculture, Soil Conservation Service, which soil types in the Village of Nelsonville have the following map codes and names:

| Code | Name |
|--------------|--|
| 25 or Sh | Sun loam |
| 27 or Sm | Sun loam, extremely stony |
| 28 or Fr | Fredon silt loam |
| 311 or Ff | Fluvaquents – Udifluvents complex, frequently flooded |
| 1251A or LcA | Leicester loam |
| 1251B or LcB | Leicester loam |
| 1252B or LcB | Leicester loam, very stony |

- B. Lands and submerged lands commonly called “marshes,” “swamps,” “sloughs,” “bogs” and “flats” supporting aquatic or semiaquatic vegetation of the following vegetative types:

- (1) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including, among others: red maple (*Acer rubrum*); willows, (*Salix* spp.); black spruce (*Picea mariana*); swamp white oak (*Quercus bicolor*); red ash (*Fraxinus pennsylvanica*); American elm (*Ulmus americana*); and Larch (*Larix laricina*).
- (2) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others: alder (*Alnus* spp.); buttonbush (*Cephalanthus occidentalis*); bog rosemary (*Andromeda glaucophylla*); leatherleaf (*Chamaedaphne calyculata*); spicebush (*Lindera benzoin*); winterberry (*Ilex montana*); red-osier dogwood (*Cornus stolonifera*); and highbush blueberry (*Vaccinium corymbosum*).
- (3) Emergent vegetation, including, among others: cattails (*Typha* spp.); pickerelweed (*Pontederia cordata*); bulrushes (*Scirpus* spp.); arrow arum (*Peltandra virginica*); arrowheads (*Sagittaria* spp.); reed (*Phragmites communis*); wild rice (*Zizania aquatica*); bur reeds (*Sparganium* spp.); purple loosestrife (*Lythrum salicaria*); swamp loosestrife (*Decodon verticillatus*); and water plantain (*Alisma plantago-aquatica*).
- (4) Rooted, floating-leaved vegetation, including, among others: water lily (*Nymphaea odorata*); water shield (*Brasenia schreberi*); and spatterdock (*Nuphar* spp.).

- (5) Free-floating vegetation, including, among others: duckweed (*Lemna* spp.); big duckweed (*Spirodela polyrhiza*); and watermeal (*Wolffia* spp.).
 - (6) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation, including, among others: sedges (*Carex* spp.); rushes (*Juncus* spp.); cattails (*Typha* spp.); rice cut grass (*Leersia oryzoides*); reed canary grass (*Phalaris arundinaceae*); swamp loosestrife (*Decodon verticillatus*); spikerush (*Eleocharis* spp.); skunk cabbage (*Symplocarpus foetidus*); and false hellebore (*Veratrum viride*).
 - (7) Bog mat vegetation, including, among others: sphagnum mosses (*Sphagnum* spp.); bog rosemary (*Andromeda glaucophylla*); leatherleaf (*Chamaedaphne calyculata*); pitcher plant (*Sarracenia purpurea*); and cranberries (*Vaccinium macrocarpon* and *V. oxycoccos*).
 - (8) Submergent vegetation, including, among others: pondweeds (*Potamogeton* spp.); navads (*Najas* spp.); bladderworts (*Utricularia* spp.); wild celery (*Vallisneria spiralis*); coontail (*Ceratophyllum demersum*); water milfoils (*Myriophyllum* spp.); muskgrass (*Chara*); stonewort (*Nitella* spp.); water weeds (*Elodea* spp.); and water smartweed (*Polygonum amphibium*).
- C. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a significantly long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six (6) feet; and provided, further, that such conditions can be expected to persist indefinitely, barring human intervention.
- D. Lands and waters enclosed by aquatic or semiaquatic vegetation as set forth in Subsection B and dead vegetation as set forth in Subsection C, the regulation of which is necessary to protect and preserve the aquatic and semiaquatic vegetation.
- E. Waters overlying areas set forth in Subsections B and C and lands underlying areas set forth in Subsection D, which "wetlands" shall be construed to include all areas having any of the conditions set forth in Subsections A through E, and the conditions set forth in Subsections B through E may overlap the soil types set forth in Subsection A.

§ 99-4. Map. [Amended 1-5-1989 by L.L. No. 1-1989]

This chapter is accompanied by a map, entitled "Zoning Map of the Village of Nelsonville, Approximate Location of Wetlands and Flood Hazard Areas," revised November 28, 1988, which map is hereby made a part of this chapter. Said map identifies the approximate location of wetlands and watercourses as well as controlled areas within the village, but the precise location thereof is as specified by the definitions in § 99-3. Said map incorporates as a supplement a map entitled "Floodway: Floodway Boundary and Floodway Map," that may be prepared and made effective by the Federal Emergency Management Agency and as such map may be amended from time to time.¹

¹ Editor's Note: The Zoning Map is located at the end of Ch. 188, Zoning. See also Ch. 95, Flood Damage Prevention.

**ARTICLE II
Regulations**

§ 99-5. Regulated activities; permit required.

- A. Any person desiring to conduct a regulated activity in a controlled area, including any wetlands or watercourses, shall obtain a permit therefor as hereinafter provided. Activities are regulated or excluded from regulation as follows:
- B. Regulated activities. All of the following activities are subject to regulation under this chapter:
- (1) Engaging in any form of draining, dredging or excavation and any grading or removal of soil, mud, sand, gravel or other earth material, either directly or indirectly.
 - (2) Engaging in any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly.
 - (3) Erecting any buildings or other structures, construction of any road, driveway or motor vehicle parking area, driving of pilings, installation of sewage disposal systems or sewer outfall, discharge of sewage treatment effluent or other liquid wastes, drilling or digging of wells, installation of any pipe or other conduits or placing of any other obstructions, whether or not changing the ebb and flow of the water.
 - (4) Using chemicals, dyes, fertilizers, herbicides or similar materials in amounts which may cause pollution of waters.
 - (5) Creating a diversion of water flow in any watercourse.
 - (6) Creating an increase or decrease in the flow, velocity or volume of water in any watercourse.
 - (7) Introducing any influents of high thermal content such that the same are capable of causing a deleterious ecological effect.
 - (8) Destroying or permitting the destruction of any trees or other plant life within twenty (20) feet of the edge of any watercourse (these actions shall be reviewed by the administering authority so as to determine if such acts affect the prevailing surface water runoff conditions, directly or indirectly).
 - (9) Engaging in any other activity which substantially impairs any of the several functions served by the wetlands and watercourses or the benefits derived therefrom as the same are set forth in Article I of this chapter.
- C. Exclusions. The following activities are excluded from regulation under this chapter:
- (1) The depositing or removal of natural products of the wetlands and watercourses by recreational or commercial fishing, aquaculture, hunting or trapping, where otherwise legally permitted and regulated.
 - (2) Public health activities under orders and regulations of the Putnam County Department of Health, provided that copies of such orders and regulations have been filed with the Nelsonville Village Clerk.

- (3) Mosquito control projects approved, in writing, by the New York State Department of Environmental Conservation.
- (4) The operation, maintenance and repair of dams, retaining walls, docks and water control structures that were in existence on the effective date of this chapter.
- (5) Emergency work which is immediately necessary to protect health and safety or prevent damage to property, provided that the Nelsonville Village Clerk is given written notice within forty-eight (48) hours after commencement of such work and within forty-eight (48) hours after completion of the work, and provided that such work is limited to alleviation of the emergency condition.
- (6) The trimming, pruning and bracing of trees, decorative landscaping, including the addition of trees and plants, and incidental removal of trees and brush.
- (7) The depositing or removal of soil on the premises of the Cold Spring Cemetery, which is generated by the digging of graves at the Cold Spring Cemetery. [Added 1-5-1989 by L.L. No. 1-1989]

§ 99-6. Application for permit.

- A. Any person proposing to conduct or cause to be conducted a regulated activity as specified in § 99-5B shall file an application for a permit with the Nelsonville Village Clerk in such form and with such information as the Village Board may prescribe. The application shall be accompanied by a fee as set from time to time by the Village Board² and four (4) copies of at least the following information:
 - (1) The names of the owners of record of the land on which the activity is to be conducted and of all adjacent owners.
 - (2) A detailed description of the proposed activity.
 - (3) A map showing the controlled area affected and any wetland or watercourse therein and the location, extent and nature of the proposed activity.
 - (4) The names of known claimants of water rights in or adjacent to the wetland or watercourse.
- B. If showing sufficient information, the following may be substituted for the required map:
 - (1) Any plan drawing or site plan required to be submitted to the village under Chapter 188, Zoning, of the Code of the Village of Nelsonville, New York; or
 - (2) Any subdivision plat maps, construction plans and grading plans required to be submitted under Chapter 168, Subdivision of Land, of the Code of the Village of Nelsonville.

² Editor's Note: See Ch. A191, Fees.

§ 99-7. Transmittal of application. [Amended 1-5-1989 by L.L. No. 1-1989]

Upon receipt, the Village Clerk shall transmit a copy of each application as follows:

- A. To the Planning Board whenever the regulated activities associated with or itself constitutes an activity for which application to the Planning Board is otherwise required.
- B. To the Wetlands Inspector in all other cases.

§ 99-8. Action on application. [Amended 1-5-1989 by L.L. No. 1-1989]

Whenever the application is forwarded to the Planning Board pursuant to § 99-7 above, the Planning Board shall pursue the following procedure in making a determination on the application.

§ 99-9. Application review.

The Planning Board may request the applicant to submit such additional information that it deems necessary to determine compliance with this chapter, including but not limited to the following:

- A. An environmental inventory and an assessment of the location and effects of the proposed activity.
- B. A chemical and biological evaluation of the waters involved and the effects of the proposed activity.
- C. Hydraulic and hydrological studies of the wetlands and watercourse.
- D. A program consisting of the schedule, sequence and type of equipment to be used in the conduct of the activity.

§ 99-10. Notice and hearing.

The following notice and hearing requirements shall be applicable in the case of any application proposing a regulated activity:

- A. The applicant shall publish notice of the filing of the application in a newspaper having a general circulation in the village, which notice shall be in form approved by the Planning Board.
- B. No sooner than thirty (30) days and not later than sixty (60) days after such publication of notice, the Planning Board shall hold a public hearing on the application, except that if no notice of objection to the application has been filed with the Village Clerk or the Planning Board otherwise determines that a hearing is not necessary, the Planning Board may dispense with such hearing. If no public hearing is to be held, the Planning Board shall publish notice of its decision, setting forth the reasons therefor, and a copy of such notice shall be filed with the Village Clerk and transmitted to the officials specified in § 99-7B.
- C. Not less than fifteen (15) days prior to a hearing, if any, the applicant shall send notice of such hearing by United States Postal Service certified or registered mail, return receipt

requested, to the owners of all lots in the village abutting the lot where the activity is proposed.

- D. Notice of any public hearing shall be published by the Planning Board in two (2) newspapers having a general circulation in the village not less than five (5) days before such hearing. A copy of the notice shall be transmitted to the officials specified in § 99-7B.
- E. All such applications and the accompanying maps and documents shall be open for public inspection in the office of the Nelsonville Village Clerk from and after publication of the first notice under § 99-10A.

§ 99-11. Determination.

Within sixty (60) days after the application is received or after notice has been published by the applicant under § 99-10A, whichever is later, the Planning Board shall make a determination as to whether or not the proposed regulated activity, with or without modifications set by the Board, conforms to the criteria set forth in § 99-17.

§ 99-12. Extension.

The applicant and the Planning Board may by mutual consent extend the time for a determination on the application.

§ 99-13. Conditions.

The Planning Board may specify requirements for modification of the proposed regulated activity and conditions or limitations for conduct of the activity, including but not limited to the time for conduct and completion of the activity and the requirement to post a bond to guarantee completion of the work in accordance with plans.

§ 99-14. Planning Board report.

The Planning Board shall report, in writing, its determination on the application to the Village Clerk and to the Wetlands Inspector, specifying the reasons therefor and any modifications, conditions and limitations. The determination of the Planning Board shall constitute the basis on which the Wetlands Inspector approves or denies the application and issues or denies a permit under this chapter.

§ 99-15. Scheduling of hearing. [Added 1-5-1989 by L.L. No. 1-1989]

Whenever conveniently possible, the hearing provided for herein shall be held at the same time as other hearings required by the Planning Board in connection with the regulated activity under the site plan and subdivision regulations of the Village of Nelsonville.³

³ Editor's Note: See Ch. 168, Subdivision of Land.

§ 99-16. Inspector review. [Added 1-5-1989 by L.L. No. 1-1989]

Whenever the application is forwarded to the Wetlands Inspector as provided in § 99-7 above, the Wetlands Inspector shall review and determine the application as provided in § 99-8 et seq., except that a public hearing and publication shall not be required.

§ 99-17. Criteria for approval. [Amended 1-5-1989 by L.L. No. 1-1989]

The following are criteria applicable to the approval of permits for proposed regulated activities in controlled areas, including wetlands and watercourses:

- A. The applicant shall have the burden of demonstrating that the proposed activity will be in accord with the policies and provisions of this chapter.
- B. In approving, disapproving or approving with modifications, the approving authority shall consider:
 - (1) The environmental impact of the proposed action.
 - (2) The alternatives to the proposed action.
 - (3) The irreversible and irretrievable commitments of resources that would be involved in the proposed activity.
 - (4) The character and degree of injury to or interference with safety, health or the reasonable use of property that is caused or threatened.
 - (5) The suitability or unsuitability of such activity to the area for which it is proposed.
 - (6) The effect of the proposed activity with reference to the protection or enhancement of the several functions of wetlands, water bodies and watercourses.
 - (7) The availability of preferable alternative locations on the subject parcel or, in the case of activity of sufficient magnitude, the availability of other reasonable locations.
 - (8) The availability of mitigation measures or safeguards that could feasibly be added to the plan or action.
 - (9) The extent to which the exercise of property rights and the public benefit derived from such use may outweigh or justify the possible degradation of the wetland, water body or watercourse, the interference with the exercise of other property rights and the impairment or endangerment of public health, safety or welfare.
- C. Permits will be issued by the approval authority pursuant to this chapter only if the approval authority shall find that:
 - (1) The proposed regulated activity is consistent with the policy of this chapter.
 - (2) The proposed regulated activity is consistent with the land use regulations governing wetlands, water bodies and watercourses applicable in the Village of Nelsonville.
 - (3) The proposed regulated activity is compatible with the public health and welfare.
 - (4) There is no practicable alternative for the proposed regulated activity on a site that is not regulated pursuant to this chapter.

- (5) The proposed regulated activity must minimize degradation to or loss of any part of the wetland, water body or watercourse or their adjacent areas and minimize any adverse impacts on the functions and benefits that said wetlands, water bodies and watercourses provide.
- (6) The proposed activities are in compliance with the standards set forth in the New York State Freshwater Wetland Regulations, Sections 665.7(e) and 665.7(g).⁴

ARTICLE III Administration and Enforcement

§ 99-18. Wetlands Inspector.

This chapter shall be administered and enforced by a Wetlands Inspector appointed by the Village Board. The Village Board may designate Deputy Wetlands Inspectors. The Wetlands Inspector shall keep records of all applications and permits, of all identifiable complaints of any violation of this chapter and of all notices of violation served by him and the action taken consequent thereon, which records shall be public records. Such Inspector shall be in charge of all such records and public access thereto, pursuant to the provisions of the Freedom of Information Law⁵ and applicable rules, and shall file with the Nelsonville Village Clerk a copy of each order or decision rendered.

§ 99-19. Administrative procedures.

The Planning Board, after public hearing and subject to the approval of the Village Board, may adopt rules and procedures for the administration of this chapter, including the submission of applications.

§ 99-20. Inspections.

The Wetlands Inspector or his authorized agents may enter upon land or waters for the purpose of inspection to determine compliance with this chapter and for the purpose of undertaking any investigations, examination, survey or other activity necessary for the purposes of this chapter.

§ 99-21. Suspension or revocation of permit.

The Wetlands Inspector is authorized to suspend or revoke a permit upon finding that the applicant has not complied with conditions or limitations set forth in the permit or has exceeded the scope of the activity as set forth in the application. The Wetlands Inspector may suspend the permit if the applicant fails to comply with the terms and conditions set forth in the application.

⁴ Editor's Note: See 6 NYCRR Part 665.

⁵ Editor's Note: See § 84 et seq. of the Public Officers Law.

§ 99-22. Remedies; appearance tickets; penalties for offenses.

- A. The Wetlands Inspector is authorized to order, in writing, the cessation of any regulated activity being conducted in violation of this chapter, but shall withdraw such order when compliance herewith has been determined.
- B. The Wetlands Inspector is authorized to order, in writing, the remedying of any condition which is found to be in violation of this chapter and to issue an appearance ticket for a violation of this chapter.
- C. Except as otherwise provided by Environmental Conservation Law § 71-2303, any person who violates this chapter shall be guilty of a misdemeanor, punishable by a fine of not less than two hundred fifty dollars (\$250.) nor more than one thousand dollars (\$1,000.) and imprisonment not to exceed three (3) months.⁶
- D. The Village Board may impose, by order after a hearing, a civil penalty not to exceed two hundred fifty dollars (\$250.) for each violation of this chapter. Each day of continued violation shall constitute a separate and additional violation. An order imposing a civil penalty shall be deemed a final determination for purposes of judicial review, and the Village of Nelsonville may bring an action to recover such civil penalty in any court of competent jurisdiction. Such action shall be brought on behalf of the village, and any amount recovered shall be paid into the general revenue funds of the village. Such right of action or recovery may be released, compromised or adjusted by the Village Board.
- E. The proper authorities of the Village of Nelsonville may institute any appropriate action or proceeding to prevent, restrain, correct or abate any violation of this chapter and to achieve restoration of the affected wetland or watercourse to its condition prior to the violation.

§ 99-23. Adherence to other provisions.

Approval of an application and issuance of a permit under this chapter shall not be construed to constitute compliance with any other regulation or law nor to relieve the applicant from responsibility to obtain a permit thereunder. The Wetlands Inspector has the discretion to withhold issuance of a permit hereunder until any other related and required permit has been obtained by the applicant. This chapter is in addition to and does not abrogate or lessen the effect of any other regulation or law pertaining to activities regulated hereunder and controlled areas to which this chapter is applicable.

§ 99-24. Appeals.

Any person aggrieved by any order or decision under this chapter may seek judicial review pursuant to Article 78 of the Civil Practice Law and Rules in the Supreme Court for the County of Putnam within thirty (30) days after the date of the filing of such order or decision with the Village Clerk. In the alternative, any person aggrieved by any order or decision under this chapter may seek review by the Freshwater Wetlands Appeals Board of the New York State

⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Department of Environmental Conservation within thirty (30) days after the date of the filing of such order or decision with the Village Clerk.

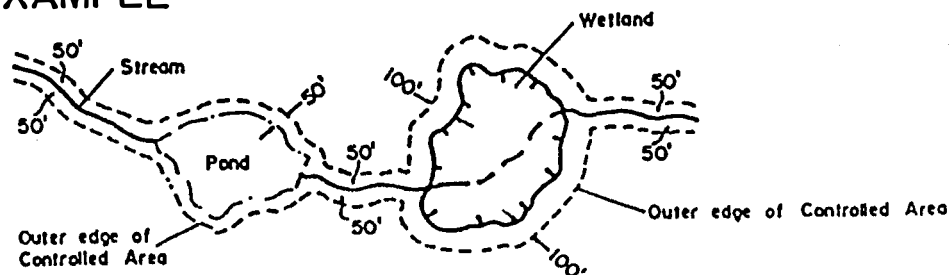
§ 99-25. Controlled areas.⁷

The following note accompanies the map entitled "Zoning Map of the Village of Nelsonville, Approximate Location of Wetlands and Flood Hazard Areas."⁸

NOTE:

Controlled area extends to fifty (50) feet beyond the edge of either bank of a watercourse and to one hundred (100) feet beyond the edge of a wetland. See chapter for definitions, wetland codes and regulations.

EXAMPLE :



⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁸ Editor's Note: The map entitled "Wetlands and Watercourses — Controlled Areas, Village of Nelsonville, Putnam County, New York," dated January 12, 1987, which accompanied this chapter, was deleted at time of adoption of code.



Chapter 103

GAMES OF CHANCE

§ 103-1. Title.

§ 103-2. Definitions.

§ 103-3. Conduct authorized.

§ 103-4. Enforcement.

§ 103-5. Sunday games.

§ 103-6. Summary applications.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 2-22-1977 as L.L. No. 1-1977 (passed mandatory referendum 3-15-1977); amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I.). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 70.

§ 103-1. Title.

This chapter shall be known as the “Games of Chance Law of the Village of Nelsonville.”

§ 103-2. Definitions.

- A. All the terms defined in § 186 of the General Municipal Law shall be incorporated herein.
- B. For the purposes of this chapter, “village” shall mean the Village of Nelsonville.

§ 103-3. Conduct authorized.

It shall be lawful for any authorized organization, upon obtaining a license as provided in Article 9-A of the General Municipal Law, to conduct games of chance within the Village of Nelsonville, subject to the provisions of this chapter, Article 9-A of the General Municipal Law and the New York State Racing and Wagering Board.

§ 103-4. Enforcement.

The enforcement officer of the village shall exercise control over and supervision of all games of chance conducted under an appropriately issued license. Such officer shall have all those powers and duties set forth in Article 9-A of the General Municipal Law.

§ 103-5. Sunday games.

Games of chance may be conducted on Sunday pursuant to this chapter. However, no games of chance shall be conducted on Easter Sunday, Christmas Day, New Year's Eve, Rosh Hashanah or Yom Kippur.

§ 103-6. Summary applications.

Pursuant to General Municipal Law § 190, Subdivision 3, certain repeat authorized organizations may submit a summary application for license.

Chapter 122

LITTERING

§ 122-1. Littering and dumping.

§ 122-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 12-28-1931 as Ch. II, Sec. 2, of the 1931 Code of Ordinances; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I.). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 148.

Streets and sidewalks — See Ch. 165.

§ 122-1. Littering and dumping.

No person shall throw, place or deposit any ashes, garbage, vegetable matter, offal, refuse, containers, abandoned autos or other vehicles in or upon any street, sidewalk or lot in said village except with the consent of the Board of Trustees or except for removal under the direction of the village authorities; nor shall any person or persons use as a public dump or dumping ground any lands within the village except those designated for that purpose by the Board of Trustees.

§ 122-2. Penalties for offenses.

Any violation of any of the provisions of this chapter shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.



Chapter 129

NOISE

§ 129-1. Declaration of policy.

§ 129-3. Prohibited noises.

§ 129-2. Definitions.

§ 129-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 8-7-1995 as L.L. No. 4-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 62.

Zoning — See Ch. 188.

Peddling and soliciting — See Ch. 142.

§ 129-1. Declaration of policy.

It is hereby declared to be the policy of the Board of Trustees to prevent any unreasonable, loud, disturbing and unnecessary noise. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual or contrary to the public welfare is prohibited.

§ 129-2. Definitions.

For the purposes of this chapter, the terms used herein are defined as follows:

PERSON — Any individual, firm, association or corporation, whether such person is the owner, lessee or charterer, its servants, agents or employees.

SOUND DEVICE OR APPARATUS — Any radio device or apparatus or any device or apparatus for the amplification of sounds from any radio, phonograph or other sound-making or sound-producing device, or any device or apparatus for the reproduction or amplification of the human voice or other sounds.

TO USE OR OPERATE ANY SOUND DEVICE OR APPARATUS IN, ON, NEAR OR ADJACENT TO ANY PUBLIC STREET, PARK OR PLACE — To use or operate or cause to be used or operated any sound device or apparatus in front of or outside of any building, place or premises or in or through any window, doorway or opening of such building, place or premises, abutting on or adjacent to any public street, park or place, or in or upon any public street, park or place, where the sounds therefrom may be heard upon any public street, park or place, or from any stand, platform or other structure or from any airplane or other device used for flying, flying over the village, or in any boat or on the waters within the jurisdiction of the village, or anywhere on or in the public street, parks or places.

UNNECESSARY — That which is not required by the usual circumstances.

USUAL — The normal noise range for a particular type of vehicle or mechanism.

§ 129-3. Prohibited noises.

The following acts, among others, by any person are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but any enumeration herein shall not be deemed to be exclusive:

- A. The operation of any radio or phonograph or the use of any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel, motel or other type of residence.
- B. The keeping of any animal or bird which, by causing frequent or long-continued noise, shall disturb the comfort and repose of any person in the vicinity.
- C. The use of any automobile, motorcycle, streetcar or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- D. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
- E. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine or the motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- F. The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- G. The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or container or the opening and the destruction of bales, boxes, crates and containers.
- H. The shouting and crying of peddlers, hawkers, vendors and persons which disturbs the peace and quiet of the neighborhood.
- I. The use of any drum, loudspeakers or other instrument or device for the purpose of attracting attention to any sale or display of merchandise by the creation of noise.
- J. The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle, except as a warning signal pursuant to provisions of law.
- K. The use of any radio apparatus, talking machine, loudspeaker or amplifier attached thereto in such a manner that the loudspeaker shall cause the sound from such radio apparatus or talking machine to be projected directly therefrom outside of any building or out of doors, or the use of any radio apparatus, talking machine, loudspeaker or amplifier which is in any way fastened to or connected with any outside wall or window in any building or structure so that the sound therefrom is projected outside of such outside wall or window. Nothing herein contained shall be construed to prevent the operation of a radio apparatus or talking machine used in a reasonable manner by any person within any building or structure, provided that said radio apparatus or talking machine or loudspeaker is not so arranged that such loudspeaker shall project the sound therefrom directly outside of any building or out of doors.

- L. The operation of any machinery, equipment, pump, fan, exhaust fan, attic fan, air-conditioner apparatus or similar mechanical device in such a manner as to create any unreasonable and unnecessary noise which shall disturb the comfort and repose of any person in the vicinity.
- M. The use and operation of sound devices and apparatus for commercial or business advertising purposes. It shall be unlawful for any person to use or operate or cause to be used or operated any sound device or apparatus in, on, near or adjacent to any public street, park or place for commercial or business advertising purposes.

§ 129-4. Penalties for offenses.

Any person committing an offense against any of the provisions of this chapter shall be guilty of a violation under the Penal Law and, upon conviction thereof, shall be punishable by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than fifteen (15) days, or both. Each day of continued violation shall constitute a separate additional violation. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.



Chapter 133

NUISANCES

§ 133-1. Abatement of nuisances.

§ 133-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 12-28-1931 as Ch. II, Sec. 5, of the 1931 Code of Ordinances; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I.). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 74.

Solid waste — See Ch. 162.

Noise — See Ch. 129.

Streets and sidewalks — See Ch. 165.

Property maintenance — See Ch. 148.

§ 133-1. Abatement of nuisances.

Whenever in any place or on any premises in the Village of Nelsonville a nuisance shall have been found or declared by resolution of the County Department of Health to exist and an order shall have been made directing the owner, lessee, tenant or occupant of such place or premises to make suitable and necessary repairs or improvements or to abate said nuisance, such repairs or improvements shall be made and such nuisance shall be fully abated within the time specified in said order.

§ 133-2. Penalties for offenses.

Any violation of any of the provisions of this chapter shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.



Chapter 138

PARADES

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| § 138-1. Title. | § 138-8. Notice to village and other officials. |
| § 138-2. Definitions. | § 138-9. Permit contents. |
| § 138-3. Permit required; exceptions. | § 138-10. Duties of permittee. |
| § 138-4. Application for permit; fee. | § 138-11. Public conduct during parades. |
| § 138-5. Standards for issuance of permit. | § 138-12. Revocation of permit. |
| § 138-6. Denial of permit. | § 138-13. Penalties for offenses. |
| § 138-7. Alternate permit. | § 138-14. Liability. |

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 165.

Fees — See Ch. A191.

§ 138-1. Title.

This chapter shall be known and may be cited as the "Parade Law of the Village of Nelsonville."

§ 138-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MAYOR — The Mayor of the Village of Nelsonville.

PARADE — Any parade, march, ceremony, show, exhibition, pageant, demonstration or procession of any kind conducted or participated in by five (5) or more persons in or upon any street, sidewalk, highway, public right-of-way, park or other public place in the village.

PARADE PERMIT — A permit as required by this chapter.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

VILLAGE — The Village of Nelsonville.

§ 138-3. Permit required; exceptions.

- A. No person shall engage in, participate in, aid, form or start any parade unless a permit shall have been obtained from the Mayor.
- B. Exceptions. This chapter shall not apply to:
 - (1) Funeral processions.
 - (2) Students going to and from school classes or participating in educational activities, provided that such conduct is under the immediate direction and supervision of the proper school authorities.
 - (3) A governmental agency acting within the scope of its functions.
 - (4) Any activity which may be deemed a parade, as defined herein, but which is conducted entirely inside of a building or structure.

§ 138-4. Application for permit; fee.

- A. A person seeking issuance of a parade permit shall file an application with the Village Clerk on forms provided by such officer.
- B. Filing period. An application for a parade permit shall be filed with the Village Clerk not less than twenty (20) calendar days prior to the date on which it is proposed to conduct the parade.
- C. Contents. The application for a parade permit shall set forth the following information:
 - (1) The name, address and telephone number of the person seeking to conduct such parade.
 - (2) If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization.
 - (3) The name, address and telephone number of the person who will be the parade chair and who will be responsible for its conduct.
 - (4) The date when the parade is to be conducted.
 - (5) The route to be traveled, the starting point and the termination point.
 - (6) The approximate number of persons who and animals and vehicles which will constitute such parade, the type of animals and a description of the vehicles.
 - (7) The hours when such parade will start and terminate.
 - (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.
 - (9) The location by streets of any assembly areas for such parade.
 - (10) The time at which units of the parade will begin to assemble at any such assembly area or areas.

- (11) The interval of space to be maintained between units of such parade.
 - (12) If the parade is designed to be held by and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the Village Clerk a communication, in writing, from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
 - (13) The arrangements to be made for any sanitary facilities and for collection and disposal of any garbage, refuse or waste from the parade route or area at the conclusion of the parade.
 - (14) Any additional information which the Mayor shall find reasonably necessary to a fair determination as to whether a permit should issue.
- D. Late applications. The Mayor, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than twenty (20) days before the date on which such parade is proposed to be conducted.
- E. The application shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.¹ The Board of Trustees may amend such fee and establish a fee for late applications from time to time by resolution.

§ 138-5. Standards for issuance of permit.

The Village Clerk shall refer the application to the Mayor, who shall issue a permit as provided for hereunder when, from consideration of the application and from such other information as may otherwise be obtained, including any reports and/or recommendations from any law enforcement agencies having jurisdiction within the village, such as but not limited to the New York State Police or the Putnam County Sheriff's Department, he finds that:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic on or contiguous to its route.
- B. The conduct of the parade will not require the diversion of so great a number of law enforcement officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the village.
- C. The conduct of such parade will not require the diversion of ambulances so as to prevent normal ambulance service to portions of the village other than those to be occupied by the parade and areas contiguous thereto.
- D. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.
- E. The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire or to such an extent that adequate fire protection cannot be provided to the village.

¹ Editor's Note: See Ch. A191, Fees.

- F. The conduct of the parade is not reasonably likely to cause or result in injury to persons or property, to provoke or result in disorderly conduct or create a disturbance.
- G. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.
- H. The parade is not to be held for the sole or primary purpose of advertising any product, goods or event and is not designed to be held purely or primarily for private profit.
- I. Adequate provision has been made for any sanitary facilities and for collection and disposal of any garbage, refuse or waste from the parade route or area at the conclusion of the parade.
- J. The issuance of such permit shall not result in more than one (1) parade taking place within the village on any day. In the event of a conflict in requests for a specific date for a parade, the Mayor shall issue a permit to the applicant who first applied to the Village Clerk as determined by the date and time of such application, except that an applicant who has not received a permit for a parade date within thirty (30) days immediately prior to the proposed date of the parade shall take precedence over an applicant who has received such permit within that time.

§ 138-6. Denial of permit.

If the Mayor disapproves the application, he shall mail or have served upon the applicant, within fifteen (15) days after the date upon which the application was filed, a notice of his action stating the reasons for his denial of the permit.

§ 138-7. Alternate permit.

The Mayor, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within five (5) days after notice of the action of the Mayor, file a written notice of acceptance with the Mayor. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this chapter.

§ 138-8. Notice to village and other officials.

Immediately upon the issuance of a parade permit, the Mayor shall send or deliver a copy thereof to the following:

- A. The Village Clerk.
- B. The New York State Police and Putnam County Sheriff's Department.
- C. The Fire Chief(s) of the area encompassing the parade route.
- D. The Ambulance Corps. serving the parade route.

§ 138-9. Permit contents.

Each parade permit shall state the following information:

- A. The starting time.
- B. The minimum speed.
- C. The maximum speed.
- D. The maximum interval of space to be maintained between the units of the parade.
- E. The portions of the streets to be traversed that may be occupied by the parade.
- F. The maximum length of the parade, in miles or fractions thereof.
- G. The ending time.
- H. The provisions to be made for any sanitary facilities and for collection and disposal of any garbage, refuse or waste from the parade route or area at the conclusion of the parade.
- I. Such other information as the Mayor shall find necessary to the enforcement of this chapter.

§ 138-10. Duties of permittee.

- A. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws.
- B. Possession of permit. The parade chair or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

§ 138-11. Public conduct during parades.

- A. Interference. No person shall unreasonably hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- B. Driving through parades. No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- C. Parking on parade route. Any law enforcement agency having jurisdiction within the village shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting all or part of the route of a parade. Any such agency shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this chapter.
- D. The sponsoring person or organization shall be sole agency for determining which persons or organizations may participate in a parade for which a permit has been issued.

§ 138-12. Revocation of permit.

The Mayor shall have the authority to revoke a parade permit issued hereunder upon a violation of the standards for issuance as herein set forth.

§ 138-13. Penalties for offenses.

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a violation and, upon conviction thereof, shall be fined in an amount not exceeding two hundred fifty dollars (\$250.) or be imprisoned for a period not exceeding fifteen (15) days, or be both so fined and imprisoned. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

§ 138-14. Liability.

In addition to the penalties set forth in § 138-13 above, any person, organization or entity who or which shall violate the provisions of this chapter shall be liable in a civil action to the Village of Nelsonville for all damages and costs incurred by the village in providing police protection, cleanup services or other services resulting from the violation of this chapter. The village shall be entitled to proceed against any such person (as defined in this chapter) who organizes, arranges or participates in any parade which is in violation of this chapter.

Chapter 142

PEDDLING AND SOLICITING

- | | |
|--|--|
| § 142-1. Definitions. | § 142-7. Use of vehicles. |
| § 142-2. License required. | § 142-8. Prohibited acts. |
| § 142-3. Persons and organizations exempt from fee. | § 142-9. Records. |
| § 142-4. Application procedure. | § 142-10. Penalties for offenses. |
| § 142-5. Revocation of license. | § 142-11. Soliciting on sidewalks; outdoor sales. |
| § 142-6. Fees; exceptions; expiration of license. | |

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 8-7-1995 as L.L. No. 3-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 129.
Streets and sidewalks — See Ch. 165.

Fees — See Ch. A191.

§ 142-1. Definitions.

For the purpose of this chapter, the words used herein are defined as follows:

ESTABLISHED PLACE OF BUSINESS — A building, commercial or residential, in which or where a person transacts business and deals in goods, wares, merchandise or services, which shall have been in operation for at least ninety (90) days.

PERSON — One (1) or more persons of either sex, a firm, a partnership, a corporation or any individual representative or agent thereof with proper identification (ID), such as a driver's license or photo identification with proper addresses.

SOLICITOR:

- A. Any person who by means of telephone, by going door to door or by standing in any street or public place:
- (1) Offers to sell merchandise, wares or other goods.
 - (2) Takes orders for the future delivery of merchandise, wares or other goods.
 - (3) Offers to purchase goods, wares or other articles of value.
 - (4) Offers to perform services immediately or at any future date or offers to make, manufacture or repair any article or thing whatsoever for future deliver.
 - (5) Offers to make a future appointment for any of the above purposes.

- B. For the purpose of this chapter, the following terms shall be considered synonymous with "solicitor": hawker, peddler, itinerant merchant, transient vendor, purveyor and door-to-door salesman.

VEHICLE — A car, truck, van, pushcart and trailer.

§ 142-2. License required.

It shall be unlawful for any person to solicit, as such "solicitor" is defined in § 142-1, within the Village of Nelsonville without first having registered with the Village Clerk and having received and having in force and effect a license for the same, if such be required by said Village Clerk.

§ 142-3. Persons and organizations exempt from fee.

The following persons or organizations shall be required to obtain a license but not pay any registration fee:

- A. Merchants or solicitors having an established place of business within the village or their employees while acting within the scope of their employment and not having another use.
- B. Farmers and truck gardeners or their employees who sell or deliver products of their own farms and gardens.
- C. Religious, charitable and nonprofit organizations.

§ 142-4. Application procedure.

- A. Any person desiring to procure a license or to register to solicit in the Village of Nelsonville shall file with the Village Clerk and Code Enforcement Officer a written application, together with an employer's authorization, if required, sworn to before a notary public, upon a form approved by the Board of Trustees.
- B. If the Village Clerk shall approve the application, he shall, within five (5) days, issue a license or registration card signed by him authorizing the holder thereof to conduct business under the terms of this chapter. In the event that the application shall be denied, the Village Clerk shall state the reasons therefor. Any license issued hereunder shall not be assignable, and any holder of a license who permits it to be used by any other persons and any other person who uses it shall be guilty of a violation of this chapter.
- C. No license shall be granted to a person under eighteen (18) years of age. No license shall be issued to a person who has been refused a license within the past twelve (12) months or who has had a license revoked within the past twelve (12) months unless he can show that the reasons for such rejection or revocation no longer exist. Every licensee, while conducting business, shall carry the license and exhibit the same upon demand.
- D. No license shall be issued to any individual whose merchandise to be sold on the streets of the village consists of souvenirs, such as artificial flowers to be worn as boutonnieres,

small replicas of the American flag or a facsimile thereof or any other souvenirs of a patriotic nature, unless sponsored by one (1) of the bona fide local veterans' organizations.

- E. No license shall be issued to any person standing or selling in parking lots.
- F. The applicant shall indicate the location where any selling or soliciting will be done, and a permit will be issued for the location only. Any changes of location must be requested, in writing, to the Village Code Enforcement Officer.

§ 142-5. Revocation of license.

- A. The village may at any time, for cause shown or for a violation of this chapter or any other law, immediately revoke any license by delivering to the licensee, either in person or by mailing address given in the application, notice of such revocation, in writing, and stating therein the reason or reasons for such revocation. A license so revoked shall be returned to the Village Clerk within four (4) days of revocation.
- B. The refusal of a solicitor to leave a private premises after request by the owner or lawful occupant or the solicitation of persons other than between the hours of 8:00 a.m. and 6:00 p.m. shall be cause for revocation. The licensee shall be entitled to a hearing before the Board of Trustees upon any claim that a license was wrongly revoked or refused.

§ 142-6. Fees; exceptions; expiration of license.

- A. The annual license fee for solicitors shall be as set forth from time to time by resolution of the Board of Trustees. In addition, those solicitors who use vehicles, pushcarts and trailers shall pay an annual fee for each vehicle, pushcart or trailer as set forth from time to time by resolution of the Board of Trustees.¹
- B. Any veteran of the Armed Forces of the United States holding a peddlers license provided for in Article 4 of the General Business Law shall not be required to pay any license fee whatever, but shall be required to register with the Village Clerk.
- C. All licenses shall expire December 31 of each year and must be renewed by payment of another annual fee.
- D. All applicants for food licenses shall exhibit to the village a permit from the Putnam County Department of Health at the time of application hereunder.
- E. All vehicles which will be used or involved in soliciting shall at the time of application have a valid license and registration.
- F. All places of sale or soliciting shall be handicapped accessible.
- G. All premises licensed hereunder shall be in conformity with New York State Uniform Fire Prevention and Building Code.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Also, see Ch. A191, Fees.

§ 142-7. Use of vehicles.

Every vehicle used by a licensee hereunder shall bear, prominently displayed on both sides of the vehicle in letters and figures at least two (2) inches in height, the name of the licensee and his address. Such lettering and figures shall be maintained so that they can be plainly and distinctly read at all times while such vehicle is in use during the continuance of the license. Any licensee using a vehicle shall employ only a registered or licensed person in selling and delivering wares and other merchandise.

§ 142-8. Prohibited acts.

A licensee or his employee shall not:

- A. Create or maintain any booth or stand or place any barrels, boxes, crates or other obstruction upon any street, sidewalk or public place for the purpose of conducting business without the express approval of the Code Enforcement Officer.
- B. Stand or sell the same or similar products within two hundred (200) feet of any establishment or business within the Village of Nelsonville.

§ 142-9. Records.

It shall be the duty of the Village Clerk to keep a record of all applications received and all licenses granted under the provisions of this chapter, in which shall be recorded the names and addresses of persons licensed, the amount of fees paid and all other pertinent data concerning the issuance of licenses under this chapter. All licenses issued and all records pertaining thereto shall contain, in addition to the name and address of the licensee, the kind of goods, wares and merchandise to be sold or the nature of the services to be rendered and the date of expiration of said license.

§ 142-10. Penalties for offenses.

- A. Any person who, himself or through an agent or employee, shall act as a solicitor as herein defined without registering with the Village Clerk or obtaining a license, if said Clerk shall require one, or who, having had his license revoked, shall continue to act as a solicitor shall, upon conviction, be punished by a fine of not more than two hundred fifty dollars (\$250.) and/or imprisonment not to exceed fifteen (15) days, and each day on which such violation continues shall constitute a separate offense.
- B. Any person who, himself or through an agent or employee, shall violate the provisions of §§ 142-7 and 142-8 shall, upon conviction, be punished by a fine of not to exceed one hundred dollars (\$100.) for the first offense and not to exceed two hundred dollars (\$200.) for each subsequent offense.
- C. Any violation of the provisions of this chapter shall be deemed an offense; provided, however, that for the purpose of conferring jurisdiction upon courts and judicial officers generally, such violation shall be deemed a misdemeanor; and for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations.

§ 142-11. Soliciting on sidewalks; outdoor sales.

- A. On sidewalks. All locations must first have the approval of the Code Enforcement Officer. Fifty percent (50%) of the sidewalk must be clear for pedestrian travel, shopping carts, carriages, etc. The location cannot impede any fire ingress or egress and cannot block fire hydrants. The licensee shall be solely responsible for maintaining an orderly, clean environment at all times; failure to do so will result in revocation of the license. A permit to solicit shall be prominently displayed during all times of operation. No merchandise shall be left outside on the sidewalk after business hours unless there is a person assigned to monitor merchandise. Any and all equipment approved for use using electricity shall have an electrical inspection before a permit is issued to ensure that no electrical violations exist.
- B. Any property to be used for soliciting shall have written documentation from said owner allowing the licensee to solicit on the same.
- C. Approval is required of the Code Enforcement Officer for any outdoor sales of goods ordinarily sold indoors in an adjacent establishment.



Chapter 145

POLLUTION

ARTICLE I

Air

§ 145-2. Penalties for offenses.

§ 145-1. Smoke from motor vehicles.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 12-28-1931 as Ch. VII, Sec. 84, of the 1931 Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Littering — See Ch. 122.
Noise — See Ch. 129.

Nuisances — See Ch. 133.

ARTICLE I

Air

**[Adopted 12-28-1931 as Ch. VII, Sec. 84,
of the 1931 Code of Ordinances]**

§ 145-1. Smoke from motor vehicles.

No person shall cause, suffer or allow dense smoke to be discharged from any motor vehicle within the village.

§ 145-2. Penalties for offenses.¹

Any person violating any provision of this Article shall forfeit and pay a penalty not to exceed two hundred fifty dollars (\$250.) or shall be subject to imprisonment not to exceed fifteen (15) days, or be subject to both such fine and imprisonment, for each offense.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



Chapter 148

PROPERTY MAINTENANCE

§ 148-1. Responsibilities of abutting property owners and occupants.

§ 148-2. Care of property.

§ 148-3. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 12-28-1931 as Ch. II, Secs. 1 and 11, of the 1931 Code of Ordinances. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 74.

Nuisances — See Ch.133.

§ 148-1. Responsibilities of abutting property owners and occupants.

- A. Every owner, lessee, tenant, occupant or person in charge of any building or premises within or adjacent to the built-up portions of the Village of Nelsonville shall keep and cause to be kept the sidewalks, flagging and curbstone abutting on said building or premises free from grass, weeds, obstructions and nuisances of every kind and shall sweep and remove or cause to be swept and removed therefrom all garbage, refuse, filth, dirt and other offensive material and shall keep such sidewalk, flagging and curbstone free from garbage, refuse, filth, dirt and other offensive material.
- B. No such owner, tenant, lessee, occupant or person in charge shall allow anything in, on or about such building or premises or any condition arising or existing therein or thereon to become a nuisance or dangerous or prejudicial to life or health.

§ 148-2. Care of property.¹

It shall be the duty of every owner, lessee, contractor or other person having the management or control of any lot or parcel of land in the Village of Nelsonville to preserve and keep the same, at all times, clean and inoffensive.

§ 148-3. Penalties for offenses.²

Any violation of any of the provisions of this chapter shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



Chapter 151

PUBLIC NOTICES

ARTICLE I

Posting Restrictions

§ 151-1. Postings; removal; fees.

§ 151-2. Penalties for offenses.

ARTICLE II

Interference with Notices

§ 151-3. Destruction of notices prohibited.

§ 151-4. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 12-28-1931 as Ch. VI, Sec. 58, of the 1931 Code of Ordinances, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. II, 12-28-1931 as Ch. VI, Sec. 59, of the 1931 Code of Ordinances, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 165.
Zoning — See Ch. 188.

Fees — See Ch. A191.

ARTICLE I

Posting Restrictions

**[Adopted 12-28-1931 as Ch. VI, Sec. 58,
of the 1931 Code of Ordinances;
amended in its entirety at time of
adoption of Code¹]**

§ 151-1. Postings; removal; fees.²

No person shall post, hang or cause to be posted or hung any handbill, notice or placard, except legal notices, upon any post, telegraph or electric light pole, tree or fence or other object in any street or public place of the village without a permit, with such fees as may be set forth from time to time by resolution of the Board of Trustees, from the Mayor, and any such sign, except as such sign is otherwise provided for in Chapter 188, Zoning, handbill, notice or placard placed in violation hereof may be removed by any citizen of the village.

¹ Editor's Note: See Ch. 1, General Provisions, Art. I.

² Editor's Note: See Ch. A191, Fees.

§ 151-2. Penalties for offenses.

Any person violating any provision of this Article shall forfeit and pay a penalty not to exceed two hundred fifty dollars (\$250.) or shall be subject to imprisonment not to exceed fifteen (15) days, or be subject to both such fine and imprisonment, for each offense.

ARTICLE II
Interference with Notices
[Adopted 12-28-1931 as Ch. VI, Sec. 59,
of the 1931 Code of Ordinances;
amended in its entirety at time
of adoption of Code³]

§ 151-3. Destruction of notices prohibited.

No person shall interfere with or obstruct, mutilate or tear down any notice of the Board of Trustees or Putnam County Department of Health posted in or on any premises in the Village of Nelsonville.

§ 151-4. Penalties for offenses.

Any person violating any provision of this Article shall forfeit and pay a penalty not to exceed two hundred fifty dollars (\$250.) or shall be subject to imprisonment not to exceed fifteen (15) days, or be subject to both such fine and imprisonment for each offense.

³ Editor's Note: See Ch. 1, General Provisions, Art. I.

Chapter 162

SOLID WASTE

ARTICLE I

Recycling

§ 162-1. Title.

§ 162-2. Legislative intent.

§ 162-3. Definitions.

§ 162-4. Source separation and collection.

§ 162-5. Penalties for offenses.

§ 162-6. Adoption of additional regulations.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 5-18-1992 as L.L. No. 1-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 74.
Littering — See Ch. 122.

Property maintenance — See Ch. 148.

ARTICLE I

Recycling

[Adopted 5-18-1992 as L.L. No. 1-1992]

§ 162-1. Title.

This Article shall be cited and may be referred to hereinafter as the "Village of Nelsonville Mandatory Recycling Law."

§ 162-2. Legislative intent.

The intent of this Article is to establish a mandatory recycling program within the Village of Nelsonville and to empower the Village Board to adopt regulations therefor, thereby promoting and protecting the health, safety and welfare of the residents of village, concerning energy and natural resources, and protecting the environment.

§ 162-3. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

PERSONS — Includes all individuals, partnerships, corporations, owners, tenants, lessees, occupants, associations and organizations residing or owning, operating, managing, leasing or occupying any premises, land, residence or business within the Village of Nelsonville.

RECYCLABLES — Solid waste consisting of:

A. Newspapers.

- B. Corrugated cardboard.
- C. Glass.
- D. Tin and aluminum cans.
- E. Plastic bottles which are either polyethylene terephthalate (PETE) and/or higher-density polyethylene (HDPE). (These normally have a recyclable symbol on the bottom with number 1 or 2.)
- F. Tires.
- G. White goods which are defined as appliances and large solid metal items, including but not limited to washers, dryers, refrigerators, freezers, stoves, water tanks, hot water heaters, air conditioners, vending machines, copy machines, axles, transmissions, tire rims, metal tubs and shower stalls.

§ 162-4. Source separation and collection.

- A. It shall be mandatory for all persons to separate recyclables from other solid waste disposed of or left for collection or disposal within the Village of Nelsonville.
- B. No person shall dispose of solid waste containing recyclables within the Village of Nelsonville except at the times and places and in containers as shall be designated by the Village Board of the Village of Nelsonville from time to time by resolution of the Board.
- C. No person shall knowingly dispose of solid waste within the Village of Nelsonville which contains recyclables.

§ 162-5. Penalties for offenses.

Any person who violates any provision of this Article or any regulation promulgated hereunder shall be guilty of a violation punishable as follows:

- A. Conviction of a first offense: up to twenty-five dollars (\$25.).
- B. Conviction of a second offense: up to fifty dollars (\$50.).
- C. Conviction of a third or subsequent offense: up to two hundred fifty dollars (\$250.).

§ 162-6. Adoption of additional regulations.

- A. The Village Board of the Village of Nelsonville is authorized to adopt and establish regulations by resolution for the administration, procedures and manner of collection and disposition of recyclables under this Article.
- B. The Village Board may adopt, amend, modify or supplement said regulations by resolution.

Chapter 165

STREETS AND SIDEWALKS

ARTICLE I **Closing of Streets**

- § 165-1. Temporary closing.**
- § 165-2. Penalties for offenses.**

ARTICLE II **Excavations**

- § 165-3. Authorization; permit; fees.**
- § 165-4. Disturbance of street surfaces; remedies.**
- § 165-5. Notice of unsafe travel conditions.**
- § 165-6. Safety barriers to work site.**
- § 165-7. Visibility.**
- § 165-8. Disturbances prohibited.**
- § 165-9. Permission for depositing materials; excavations.**
- § 165-10. Penalties for offenses.**

ARTICLE III **General Provisions**

- § 165-11. Street obstructions prohibited.**

- § 165-12. Injuring pavements.**
- § 165-13. Selling in streets; gathering crowds.**
- § 165-14. Leaving merchandise on streets and sidewalks.**
- § 165-15. Penalties for offenses.**

ARTICLE IV **Snow and Ice Removal**

- § 165-16. Removal of snow from abutting sidewalks.**
- § 165-17. Additional remedies.**
- § 165-18. Penalties for offenses.**

ARTICLE V **Notification of Defects**

- § 165-19. Liability; notice.**
- § 165-20. Referral to Board.**
- § 165-21. Records.**

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville: Art. I, 12-28-1931 as Ch. III, Sec. 22, of the 1931 Code of Ordinances; Art. II, 12-28-1931 as Ch. III, Secs. 23, 24, 25, 26, 27, 28 and 29, of the 1931 Code of Ordinances, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I.); Art. III, 12-28-1931 as Ch. III, Secs. 30, 32, 35 and 38, of the 1931 Code of Ordinances, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I.); Art. IV, 12-28-1931 as Ch. IV, Secs. 39 and 40, of the 1931 Code of Ordinances, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I.); Art V, 9-9-1985 as L.L. No. 4-1985. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Parades — See Ch. 138.

Peddling and soliciting — See Ch. 142.

Property maintenance — See Ch. 148.

Vehicles and traffic — See Ch. 178.

Fees — See Ch. A191.

ARTICLE I

Closing of Streets

[Adopted 12-28-1931 as Ch. III, Sec. 22,
of the 1931 Code of Ordinances]

§ 165-1. Temporary closing.

The Mayor of the Village of Nelsonville is empowered to close temporarily to traffic any street or a portion thereof within his jurisdiction when, in his judgment, travel in the same is deemed to be dangerous to life.

§ 165-2. Penalties for offenses.¹

Any violation of any of the provisions of this Article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

ARTICLE II

Excavations

[Adopted 12-28-1931 as Ch. III, Secs. 23, 24, 25, 26, 27,
28 and 29, of the 1931 Code of Ordinances; amended
in its entirety at time of adoption of Code²]

§ 165-3. Authorization; permit; fees.³

No person, without being previously authorized by a permit of the Mayor of the village, together with such fees as shall be set forth from time to time by resolution of the Board of Trustees for said permit, shall fill in or raise or cause to be filled in or raised any street or public place or any part of such street or public place or take up, remove or carry away or cause to be taken up, removed or carried away any asphalt or asphalt blocks, flagstones, turf, stone, gravel, sand, clay or earth from any such street or public place.

§ 165-4. Disturbance of street surfaces; remedies.

Whenever any persons shall attempt to take up the pavement of any street or remove any part of the paving thereof without a permit, the Mayor of the village shall take immediate steps to prevent such disturbance of the surface of the street and shall forthwith restore such flagging or pavement as nearly as may be practicable to the condition in which it was before such taking or

¹ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

² Editor's Note: See Ch. 1, General Provisions, Art. I.

³ Editor's Note: See Ch. A191, Fees.

removal as aforesaid, at the expense of the party removing the same, to be recovered as penalties are recovered.

§ 165-5. Notice of unsafe travel conditions.

Whenever any person shall have authority under any contract with the village or under any permit to remove the pavement from or to excavate, occupy or use any part of a public street so as to obstruct travel therein, he shall erect or cause to be erected suitable notices of the obstruction in conspicuous positions at all points of intersection of such street with the cross streets nearest to the obstruction, which notice shall be in the form prescribed by the Board of Trustees.

§ 165-6. Safety barriers to work site.

Every person engaged in digging down or paving any street or building therein any sewer, drain or trench for any purpose under contract with the village or by virtue of any permit that may have been granted by any officer of the village shall erect such a fence or railing about the excavation or work as shall prevent danger to persons traveling the street while the work is left exposed and would be dangerous, and any such railing or fence shall be continued and maintained until the work shall be completed or the obstruction or danger removed.

§ 165-7. Visibility.

At sundown, there shall be placed upon each such railing as mentioned in the aforesaid section and upon building materials, posts, poles, pipes or other obstructions in any street or public place suitable and sufficient lights which shall be kept burning through the night during the existence of the obstruction.

§ 165-8. Disturbances prohibited.

No person shall throw down, displace or remove any barrier, guard or railing or extinguish or remove any light thereon or on any obstruction in any street without the written consent of the Mayor of the village having jurisdiction of the street in which any obstruction is placed or without the consent of the person superintending the work or materials protected thereby.

§ 165-9. Permission for depositing materials; excavations.

No person shall deposit material used for building or other purposes upon any highway of the village or dig or cause to be dug any excavation or other opening in the highways therein for any purpose except with the permission and under the direction of the village officer or officers having charge of the public work incidental to which such excavation is required.

§ 165-10. Penalties for offenses.

Any violation of any of the provisions of this Article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

ARTICLE III**General Provisions**

**[Adopted 12-28-1931 as Ch. III, Secs. 30, 32, 35
and 38, of the 1931 Code of Ordinances; amended
in its entirety at time of adoption of Code⁴]**

§ 165-11. Street obstructions prohibited.

No person having the right and ability to prevent shall take or drive or allow to go or be taken any horse or other animal or any vehicle upon any sidewalks or footpath in front of any building to the peril of any person; nor shall any person block or obstruct or contribute to the blocking or obstructing of any street or other public place.

§ 165-12. Injuring pavements.

No person or persons shall throw, drop or project any heavy object upon the sidewalks or pavements of the village so as to injure the same.

§ 165-13. Selling in streets; gathering crowds.⁵

No person shall by selling or advertising in the streets, sidewalks or public places in the village cause a crowd to gather or obstruct the streets or sidewalks, nor shall any person stop in any highway for the purpose of selling merchandise for a longer time than while engaged in making one (1) sale without permission of the Mayor. No person shall sell any merchandise at auction in any of the streets, sidewalks or public places in said village without permission from the Mayor.

§ 165-14. Leaving merchandise on streets and sidewalks.

No person shall place or cause to be placed upon any street or sidewalk in said village any goods, wares or merchandise or containers therefor except when engaged in the loading or unloading of vehicles.

⁴ Editor's Note: See Ch. 1, General Provisions, Art. I.

⁵ Editor's Note: See also Ch. 142, Peddling and Soliciting.

§ 165-15. Penalties for offenses.

Any violation of any of the provisions of this Article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

ARTICLE IV**Snow and Ice Removal**

**[Adopted 12-28-1931 as Ch. IV, Secs. 39 and 40,
of the 1931 Code of Ordinances; amended in
its entirety at time of adoption of Code⁶]**

§ 165-16. Removal of snow from abutting sidewalks.⁷

Every owner, lessee, tenant, occupant or other person having charge of any building or lot of ground in the Village of Nelsonville abutting upon any street or public place where the sidewalk is paved shall, within a reasonable time after the snow ceases to fall, remove the snow or ice from the sidewalk and gutter, the time between 9:00 p.m. and 7:00 a.m. not being included in the above period.

§ 165-17. Additional remedies.

In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the owner, lessee, tenant, occupant or other person having charge of any building or lot of ground as aforesaid shall, within the time specified in the preceding section, cause the sidewalk abutting on said premises to be strewn with ashes and sawdust or some similar suitable material and shall, as soon thereafter as the weather shall permit, thoroughly clean said sidewalks.

§ 165-18. Penalties for offenses.

Any violation of any of the provisions of this Article shall be punishable by a fine not to exceed two hundred fifty dollars (\$250.) or imprisonment not to exceed fifteen (15) days, or both such fine and imprisonment.

⁶ Editor's Note: See Ch. 1, General Provisions, Art. I.

⁷ Editor's Note: See also Ch. 148, Property Maintenance.

ARTICLE V
Notification of Defects
[Adopted 9-9-1985 as L.L. No. 4-1985]

§ 165-19. Liability; notice.

- A. No civil action shall be maintained against the Village of Nelsonville for damages or injuries to person or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless:
- (1) Written notice of such defective, unsafe, dangerous or obstructed condition was received by the Village Clerk of the Village of Nelsonville at least thirty (30) days prior to the occurrence giving rise to such action.
 - (2) There was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of.
- B. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge or culvert, unless:
- (1) Written notice thereof, specifying the particular place, was actually received by the Village Clerk of the Village of Nelsonville at least thirty (30) days prior to the occurrence giving rise to such action.
 - (2) There was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 165-20. Referral to Board.

The Village Clerk of the Village of Nelsonville shall transmit, in writing, to the Village Board of Trustees within ten (10) days after the receipt thereof all written notices received by said Clerk pursuant to § 165-19 of this Article.

§ 165-21. Records.

- A. The Village Clerk of the Village of Nelsonville shall keep an indexed record in a separate book of all written notices which said Clerk shall receive pursuant to such Article of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any county highway, bridge or culvert, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received.
- B. The record of each notice shall be preserved for a period of five (5) years after the date it is received.

Chapter 168

SUBDIVISION OF LAND

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§ 168-50. Penalties for offenses.**Schedule A: Standards for
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Street**

**[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 10-7-1985.
Amendments noted where applicable.]**

GENERAL REFERENCES**Planning Board ad hoc appointments — See Ch. 36, Art. I.****Building construction and fire prevention — See Ch. 77.****Flood damage prevention — See Ch. 95.****Freshwater wetlands — See Ch. 99.****Streets and sidewalks — See Ch. 165.****Trees — See Ch. 175.****Water and sewers — See Ch. 184.****Zoning — See Ch. 188.****Fees — See Ch. A191.****ARTICLE I
General Provisions****§ 168-1. Definitions.**

Certain words used in these regulations are defined and explained as follows:

DIVISION — “Divide,” “divided” and “division” shall include:

- A. One (1) or more conveyances or plats made at one (1) time or in any succession over any period of time.
- B. Conveyances creating any easements or rights-of-way to be used for vehicular access.
- C. Conveyances or plats creating any easement or right-of-way for overhead or underground electric power transmission lines or for underground gas or telephone transmission lines, expressly excluding any easement or right-of-way for electric, gas or telephone distribution and service lines.

LOT — A parcel of land not divided by a street. The word “lot” shall include the words “plot,” “parcel” and “tract.”¹

MINOR SUBDIVISION PLAT — A subdivision where all lots (plots or parcels) are located along an existing municipal highway or along an existing private easement or right-of-way for vehicular travel or access to or from an existing municipal highway.

PERSON and APPLICANT — Any corporation, firm, partnership, association, trust, estate or one (1) or more individuals.

PLANNING BOARD — The Planning Board of the Village of Nelsonville, duly appointed by the Village Board under § 7-718 of the Village Law.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

SUBDIVISION:

- A. Any tract which shall be divided after the effective date of these regulations into two (2) or more lots (plots or parcels) along existing or proposed streets, highways, easements or rights-of-way, said lots to be used for any purpose and regardless of whether the lots (plots or parcels) are described by metes and bounds or by reference to a map or survey of the tract or by any other means of description; regardless of whether the lots (plots or parcels) are contiguous, but not including conveyance or exchange of land between adjoining owners.
- B. A "subdivision" shall also mean any division of land which will create or result in a proposed street or highway to be used for vehicular travel or access to or from a municipal highway or a proposed easement or right-of-way to be used for vehicular travel or access to or from a municipal highway, or to or from a private street approved by the Village of Nelsonville for vehicular access purposes, and providing the sole vehicular access to a lot (plot or parcel).²

SUBDIVISION PLAT — Includes the word "plat," and said words shall be used interchangeably. "Subdivision plat" or "plat" shall each mean a map showing a division of a tract into lots (plots or parcels) equal to a subdivision as defined above in this section or a map which shall create or result in a proposed street, highway, easement or right-of-way to be used for vehicular travel or access to or from a municipal highway or to or from a private street approved by the Village of Nelsonville for vehicular access purposes.³

SUBDIVISION PLAT REVISION — A change in any of the following shown upon a subdivision plat that has been approved by the Planning Board: the right-of-way lines of any proposed street, highway, easement or right-of-way for vehicular travel or access; the boundaries of any drainage or other utility right-of-way or easement; any land reserved for park or other public purposes; any building setback or encroachment lines; and the boundaries of a lot (plot or parcel); provided, however, that the boundaries of a lot (plot or parcel) may be changed by conveyance or exchange of land between adjoining owners when the portion or portions of the lot so conveyed or exchanged do not exceed ten percent (10%) of the lot as approved, the resulting lots conform to Chapter 188, Zoning, and no additional lot or lots are created within the subdivision plat.

TRACT — Any body or parcel of land which is owned separately from any adjoining parcel, parcels, lot or lots on the effective date of these regulations. The word "tract" shall also mean a body of land which includes contiguous parcels of land, regardless of how they are described or identified, which are under one (1) ownership or under common control of any group of persons acting in concert as part of a common scheme or plan of land development.

§ 168-2. Basic requirements.

The following requirements are applicable:

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- A. No person or applicant shall divide any tract into lots (plots or parcels) so as to create two (2) or more lots (plots or parcels) containing ten (10) acres or less along existing or proposed streets, highways, easements or rights-of-way for any purpose and regardless of how described and resulting in a subdivision, as defined in § 168-1, without approval from the Planning Board.
- B. No person or applicant shall divide any tract or land so as to create or result in a proposed street, highway, easement or right-of-way to be used for vehicular travel or access to or from a municipal highway or to or from a private street approved by the Village of Nelsonville for vehicular access purposes without approval from the Planning Board.⁴
- C. No person or applicant shall divide any tract or land so as to create any easement or right-of-way for overhead or underground electric power transmission lines or for underground gas or telephone transmission lines without approval from the Planning Board.
- D. No person or applicant shall make any revision in an approved subdivision plat, as subdivision plat revision is defined in § 168-1, without approval from the Planning Board.
- E. No subdivision plat, plat or map of any kind showing a subdivision or a proposed street, highway, easement or right-of-way to be used for vehicular travel shall be used in connection with the conveyance of real property in the Village of Nelsonville or be submitted to the Putnam County Clerk for filing or be filed in the Putnam County Clerk's office until said subdivision plat, plat or map has been approved by the Planning Board.

§ 168-3. Conformity to procedures.

The Planning Board, in reviewing any proposed subdivision plat or the revision of a plat, and the person proposing a plat or revision of a plat shall follow the procedures hereinafter specified. The Planning Board shall not approve any plat or revision unless it conforms to the standards hereinafter specified.

§ 168-4. Plat approval; filing.

All subdivision plats shall be approved only by majority vote of the entire membership of the Planning Board. Approval may be granted by the Planning Board subject to conditions and safeguards necessary to carry out the letter and the purpose and intent of these regulations and to protect the public health, safety and welfare and property values. No subdivision plat, plat or map of any kind shall be endorsed by the Planning Board to permit filing in the Putnam County Clerk's office until all conditions of approval have been met.

§ 168-5. Authorization of construction and improvements.

Construction and installation of roads, drainage or other improvements for a subdivision plat shall not be commenced until:

- A. An application for such subdivision plat has been approved by the Planning Board;

⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. Any conditions of approval precedent to such construction and installation have been met; and
- C. The construction and installation are authorized by resolution of the Planning Board.

§ 168-6. Approval of documentation.

All applications, maps, plans, documents and data required by these regulations in connection with a proposed subdivision plat shall be subject to the approval of the Planning Board.

§ 168-7. Interpretation; provisions to be additional.

These regulations are in addition to and do not supersede other laws or regulations governing the development of land and buildings.

§ 168-8. Fees.

The Village Board may from time to time by resolution adopt a schedule of fees concerning applications, inspections, payment in lieu of park reservation and other matters specified in these regulations.⁵

**ARTICLE II
Procedures**

§ 168-9. Submission requirements.

All applications for approval of a plat and the accompanying maps, plans, documents and data shall be presented at the office of the Planning Board or transmitted thereto by mail at least ten (10) days prior to a regular meeting of the Planning Board. The date of submission and receipt shall be the date of the regular meeting scheduled at least ten (10) days subsequent to such presentation at the office of the Planning Board; provided, however, that the Board may by resolution agree to accept an application presented in less than the ten-day period.

§ 168-10. Sketch plan submission; review.

Prior to submission of a formal application for a preliminary plat or final approval of a minor subdivision plat, the prospective applicant is invited to prepare a sketch plan of the plat and to consult with the Planning Board.

- A. Sketch plan. The sketch plan should show sufficient information to enable the Planning Board to make a general planning review under the standards of these regulations: The sketch plan should show at least the location of the plat in the neighborhood, a layout of lots and streets and existing contours at an interval of ten (10) feet and the location of watercourses, water bodies, wetlands and other major natural features.

⁵ Editor's Note: See Ch. A191, Fees.

- B. Review. The Planning Board will hold an informal discussion with the applicant concerning the nature and extent of the proposed plat, the planning criteria and submission requirements that may be applicable and the procedures for consideration of the application, maps and plans.

§ 168-11. Acceptance of preliminary plat; minor final plat.

Prior to establishment of any subdivision plat, application shall be made to the Planning Board for approval of a preliminary plat, and if so approved, for subsequent approval of a final plat. The applicant may request the Planning Board to accept an application for final consideration of a minor subdivision plat without Preliminary Plat consideration and approval. The Planning Board may accept such application for a minor final plat when:

- A. The application is accompanied by an application fee as specified in § 168-8; and
- B. The Board determines that sufficient information will be provided under final plat submission procedures to make a reasonable decision on the application.

§ 168-12. Preliminary plat application.

In order to make application for approval of a preliminary plat, the applicant shall submit the following:

- A. Application. Application for approval of a preliminary plat shall be made to the Planning Board, in writing, on forms prescribed by the Board and signed by the applicant or the lawful agent of the applicant; if the applicant is not the owner of the land to be subdivided, the application shall also be signed by the owner or the lawful agent of the owner.
- B. Application fee. An application fee shall accompany the application and shall be in an amount as specified in § 168-8.
- C. Preliminary plat. A preliminary plat meeting the standards of §§ 168-22 through 168-28 shall be submitted with the application; five (5) blue-line or black-line prints shall be submitted.
- D. Preliminary profiles. Preliminary profiles, if applicable, meeting the standards of §§ 168-22 through 168-28 shall be submitted with the application; five (5) blue-line or black-line prints shall be submitted.
- E. Report. Five (5) copies of a report shall be submitted with the application providing the following information:
- (1) The proposed method of providing water supply.
 - (2) The proposed method of providing sewage disposal.
 - (3) The results and evaluation of all seepage tests, deep test pits and borings made on the tract.
 - (4) The sufficiency of downstream drainage channels and conduits and any off-site easements or drainage rights needed for storm drainage.

- (5) Any additional information the applicant deems appropriate to assist the Planning Board in making a decision on the application.
- (6) A completed environmental assessment form.

§ 168-13. Preliminary plat consideration procedures.

The following procedures shall be followed by the Planning Board in its consideration of the application for approval of the preliminary plat:

- A. Submission review. The Planning Board shall determine that an application submitted under § 168-12 is complete. If the Planning Board determines that the application is incomplete, the Board may by resolution reject it as ineligible for consideration. The Planning Board may request the submission of additional information that the Board deems necessary in order to determine compliance with the standards of these regulations, such as but not limited to the following:
 - (1) That the land to be subdivided is of such character that it can be used safely for building purposes without danger to health or safety.
 - (2) That proper provision will be made for water, drainage and sewerage.
 - (3) That proper provision will be made for protective flood-control measures in areas contiguous to brooks, rivers or other bodies of water subject to flooding.
 - (4) That open spaces for parks and playgrounds will be established in places deemed proper by the Planning Board.
 - (5) That the proposed subdivision, including streets and provision for access, will be in harmony with any Comprehensive Master Plan adopted by the Planning Board and affecting the area of the proposed subdivision.
- B. Mandatory hearing. Upon due notice as required by law, the Planning Board shall hold a public hearing on the preliminary plat application.⁶
- C. Action on preliminary plat. Within sixty-two (62) days after the time of submission of the preliminary plat as specified in § 168-9 and after the public hearing, if any, the Planning Board shall take action to conditionally approve, with or without modifications, or disapprove the preliminary plat. The ground for any modification required or the ground for disapproval shall be stated upon the records of the Planning Board. If the final plat is not submitted within six (6) months of conditional approval of the preliminary plat, the Planning Board may refuse to approve the final plat.⁷

§ 168-14. Final plat application.

In order to make application for approval of a final plat (or minor final plat), the applicant shall submit the following:

⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- A. Application. Application for approval of a final plat shall be made to the Planning Board, in writing, on forms prescribed by the Board and signed by the applicant or the lawful agent of the applicant; if the applicant is not the owner of the land to be subdivided, the application shall also be signed by the owner or the lawful agent of the owner.
- B. Application fee. An application fee shall accompany the application and shall be in amount as specified in § 168-8.
- C. Final plat. A final plat, meeting the standards of §§ 168-22 through 168-28 and substantially in agreement with the preliminary plat as conditionally approved, with required modifications, shall be submitted with the application; five (5) blue-line or black-line prints shall be submitted.
- D. Construction plans. Construction plans, if applicable, meeting the standards of §§ 168-22 through 168-28, shall be submitted with the application; five (5) blue-line or black-line prints shall be submitted.
- E. Additional evidence. The following additional information shall also be submitted:
 - (1) Evidence that the proposed provision for water supply and sewage disposal has been approved by the Putnam County Department of Health.
 - (2) Evidence that plans for any street or drainage system connecting to a state highway or county road have been submitted to the New York State Department of Transportation or the Putnam County Superintendent of Highways, as the case may be, and that application for such connection has been made.
 - (3) Evidence that plans for any street or drainage system connecting to a Town of Philipstown or Village of Cold Spring street have been submitted to the Town Superintendent of Highways or such Village Board of Trustees, as the case may be, and that application for such connection, if required by law, has been made.
 - (4) Evidence that any proposed modification of a wetland or watercourse that is subject to regulation by the New York State Department of Environmental Conservation or local law has been authorized by the agency having jurisdiction.⁸
 - (5) In the event that any major regrading, cuts, fills or soil or rock removal is proposed in the subdivision, a grading plan meeting the standards of §§ 168-22 through 168-28; five (5) blue-line or black-line prints shall be submitted.
 - (6) Design computations and data for any drainage systems or central water supply and sanitary sewer systems.

§ 168-15. Final plat consideration procedures.

The following procedures shall be followed by the Planning Board in its consideration of the application for approval of the final plat (or minor final plat):

⁸ Editor's Note: See Ch. 99, Freshwater Wetlands.

- A. Submission review. The Planning Board shall determine that the application submitted under § 168-14 is complete. If the Planning Board determines that the application is incomplete, the Board may by resolution reject it as ineligible for consideration. After an application has been accepted, the Board may request the applicant to submit supplementary information that the Board deems necessary in order to make a reasonable decision on the application.
- B. Hearing. The Planning Board may hold a public hearing if the final plat is not in substantial compliance with the preliminary plat on the accepted final plat application, which hearing shall be advertised at least once in a newspaper of general circulation in the Village of Nelsonville and a notice of hearing posted in at least three (3) prominent places, such advertising and posting to be at least five (5) days before such hearing.⁹
- C.¹⁰ Action on final plat. Within sixty-two (62) days after the time of submission of the final plat as specified in § 168-9 and after the public hearing, the Planning Board shall approve, modify and approve, or disapprove the final plat. The ground for refusal of any final plat shall be stated in the records of the Planning Board. Approval shall include no less than the following requirements as applicable to the particular plat:
- (1) Presentation of the tracing of the final plat as approved, including any modifications as required by the Board, and as intended for filing with the Putnam County Clerk, and presentation of one (1) blue-line or black-line print of such plat if there has been a modification thereof as a result of final approval.
 - (2) Presentation of five (5) blue-line or black-line prints of the final plat as filed with the Putnam County Clerk, showing all endorsements and acknowledgments of filing (see § 168-16C).
 - (3) Presentation of a linen or polyester film tracing of the approved construction plans and any grading plan; presentation of five (5) blue-line or black-line prints of such plans if there has been a modification thereof as a result of final approval.
 - (4) Completion of all required street, drainage and other plat improvements required to be constructed under these regulations and within a period of time specified by the Planning Board or, in lieu of such completion prior to endorsement of the final plat, the execution of an agreement and posting of a bond to guarantee such completion (see §§ 168-18 and 168-21A).
 - (5) Presentation of copies of permits from the Putnam County Superintendent of Highways and/or New York State Department of Transportation for any street or drainage connections to a county road or state highway.
 - (6) Presentation of copies of permits from the Town of Philipstown Superintendent of Highways and/or Village of Cold Spring for any proposed street or drainage connections to a town street or Cold Spring Village street.
 - (7) Presentation of conveyances for any easements either shown on the final plat or outside the plat if supporting a drainage, water supply and sanitary sewer system

⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁰ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

proposed to be dedicated to the Village of Nelsonville or a special utility district (see § 168-19).

- (8) Presentation of formal offers of cession for all streets, rights-of-way and parks shown on the final plat and proposed to be dedicated to the Village of Nelsonville (see § 168-19).
- (9) Presentation of evidence that final arrangements have been made for provision and ownership of central water supply and sewage disposal systems as approved by the Planning Board.
- (10) Payment of any required inspection fee as specified in § 168-8 (see § 168-20).
- (11) Presentation of payments in lieu of reservation of land for park and playground purposes as specified in § 168-8 (see § 168-45A).

§ 168-16. Final plat endorsement; filing.

The following are applicable to endorsement of the final plat (or minor final plat) and the filing thereof:

- A. Expiration of approval. Approval of a final plat shall expire sixty-two (62) days after the date of the resolution granting conditional approval unless the requirements of approval have been met, the final plat has been endorsed by the authorized officer of the Planning Board and the final plat has been filed in the office of the Putnam County Clerk. The Planning Board may extend the time for filing the plat if, in its opinion, such extension is warranted by the particular circumstances thereof, for not to exceed two (2) additional periods of sixty-two (62) days each.¹¹
- B. Signing. Signing or endorsement of the final plat shall constitute approval of the plat. The final plat shall be signed by the officer of the Board authorized and designated in the resolution of approval and only when all requirements of approval have been met. The date of signing shall be shown on the final plat by such officer.
- C. Copies of filed plat. Promptly after an endorsed final plat has been filed in the office of the Putnam County Clerk, the applicant shall deliver to the village the five (5) prints required in § 168-15C(2).

§ 168-17. Coordination with State Environmental Quality Review Act.¹²

- A. Preliminary plats and final plats where no preliminary plat was required shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

¹¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹² Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- B. When the Planning Board is lead agency under the State Environmental Quality Review Act (SEQRA),¹³ any public hearing held by the Planning Board on a preliminary plat, on a final plat where no preliminary plat was required or on a final plat which does not substantially conform to an approved preliminary plat shall be coordinated with the environmental review process as follows.
- (1) If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on the plat shall be held within sixty-two (62) days after the receipt of a complete preliminary plat; or,
 - (2) If the Planning Board determines that the preparation of an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such draft environmental impact statement. If no public hearing is held on the draft environmental impact statement, the public hearing on the plat shall be held within sixty-two (62) days of filing the notice of completion.
 - (3) The hearing on the plat shall be advertised at least once in a newspaper of general circulation in the village at least five (5) days before such hearing if held independently of the hearing on the draft environmental impact statement or fourteen (14) days before a hearing held jointly therewith. The hearing on the plat shall be completed within one hundred twenty (120) days after it has begun.
 - (4) If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within sixty-two (62) days following the close of the public hearing on the plat. Within thirty (30) days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the plat.
- C. If the Planning Board is not lead agency under the State Environmental Quality Review Act, any public hearing held by the Planning Board on a preliminary plat, on a final plat where no preliminary plat was required or on a final plat which does not substantially conform to an approved preliminary plat shall be coordinated with the environmental review process as follows.
- (1) The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the plat within sixty-two (62) days after the receipt of a complete plat by the Clerk of the Planning Board.
 - (2) The hearing on the plat shall be advertised at least once in a newspaper of general circulation in the village at least five (5) days before such hearing if held

¹³ Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

independently of the hearing on the draft environmental impact statement or fourteen (14) days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such a manner as it deems most appropriate for full public consideration of such plat. The hearing on the final plat shall be completed within one hundred twenty (120) days after it has begun.

- (3) The Planning Board shall act on the plat within sixty-two (62) days after the close of the public hearing on such plat.

§ 168-18. Construction completion.

- A. The street, drainage and other improvements required by these regulations shall be completed on or before any completion date specified by the Planning Board as a requirement of approval of the final plat [see § 168-15C(4)].
- B. Extension of time for completion. Upon written request by the applicant, the Planning Board may by resolution extend such completion date for good cause, and provided that the Planning Board is satisfied that there is adequate evidence that the completion bond will remain in full force and effect for the term of such extension, sufficient improvements have been installed to support any existing use or development within the subdivision plat, the construction work is proceeding in accordance with plans as approved and the public health and safety will not be impaired by the extension. Otherwise, the Planning Board may by resolution determine that the subdivision plat is in default and fails to conform to the conditions of approval.

§ 168-19. Conveyances; offers of cession.

The applicant shall provide written conveyances, in a form satisfactory to the Village Board and Village Attorney, confirming all easements shown on the final plat for drainage, water supply and sanitary sewer facilities to be dedicated to the Village of Nelsonville or a special utility district and any easements located outside the plat if supporting such facilities [see § 168-15C(7)]. Formal offers of cession for all streets, rights-of-way and parks shown on the final plat and proposed to be dedicated to the Village of Nelsonville shall be presented by the applicant as a deed of dedication in a form satisfactory to the Village Board [see § 168-15C(8)].

§ 168-20. Inspection fee.

In accordance with § 168-8, the applicant shall pay to the Village of Nelsonville an inspection fee equal to a percentage of the full cost, as estimated by the Planning Board, for construction of street, drainage and other subdivision improvements required to be constructed under these regulations or otherwise to be dedicated to the Village of Nelsonville or a special utility district.

§ 168-21. Bonds; requirements upon construction completion.

The following are requirements pertaining to bonds and the release thereof guaranteeing completion of streets, drainage and other improvements:

- A. Completion bond. The completion bond presented by the applicant [see § 168-15C(4)] shall be a surety, cash or savings account bond with security acceptable to the Village Board and approved by the Village Attorney as to form, sufficiency and manner of execution. The bond shall be in such amount as estimated by the Planning Board to be sufficient to ensure the completion of all plat improvements and shall specify completion of such improvements within a period of time fixed by the Planning Board and not exceeding two (2) years.
- B. As-built plans. Before release of any subdivision completion bond or reduction in the face value thereof under Subsection C of this section or before the conditionally approved final plat is endorsed when no bond has been posted but improvements have been completed, the applicant shall present construction plans meeting the standards of §§ 168-22 through 168-28, showing the streets, drainage and other subdivision improvements as built. In lieu of such submission, the applicant's land surveyor or engineer may update and certify the tracing of the construction plans submitted under § 168-14D to show such information.
- C. Reduction of completion bond. Upon written request by the applicant and presentation of as-built plans as specified in Subsection B of this section, the Planning Board, during the term of the completion bond, may determine that street, drainage and other plat improvements required by these regulations have been installed in sufficient amount to warrant reduction in the face amount of such bond, and the Planning Board, after due notice and public hearing and with the approval of the Village Board, may approve reduction in the face value of the bond by an appropriate amount.
- D. Maintenance bond. Before release of a plat completion bond or before the final plat is endorsed when no bond has been posted but improvements have been completed, the applicant shall execute an agreement and file a maintenance bond to guarantee remedy of unforeseen deficiencies in the required street, drainage and other subdivision improvements. The maintenance bond shall be a surety, cash or savings account bond with security acceptable to the Village Board and approved by the Village Attorney as to form, sufficiency and manner of execution. The bond shall be in such amount as estimated by the Planning Board to be sufficient to ensure remedy of unforeseen deficiencies and shall run for a period of at least one (1) year after the improvements have been accepted by the village.

ARTICLE III Design Standards

§ 168-22. General requirements for maps and plans.

The maps and plans required by these regulations shall show the information and shall be prepared in accordance with the standards hereinafter specified. All preliminary plats, final plats, construction plans and grading plans shall be prepared by and bear the name, signature and seal of a land surveyor or professional engineer, or both, as required by law and licensed by the State of New York. Elements of such maps and plans and related studies and evaluations may be prepared by an architect, landscape architect or other designers or technicians as authorized by law and noted on the documents presented. Pertinent survey data and design computations shall be presented to the Planning Board and Village Board or their authorized

agent for review upon request. Maps, plans, studies and evaluations shall include information hereinafter specified to the extent applicable to the particular plat.

§ 168-23. Schedule of standards.

The following schedules are hereby declared to be a part of these regulations:

- A. Schedule A: Standards for Maps.¹⁴
- B. Schedule B: Standards for Construction Plans.¹⁵

§ 168-24. Scope of preliminary plat.

The preliminary plat shall show existing conditions and the proposed layout of lots, streets and improvements for the proposed subdivision and all contiguous land of the applicant that may be subdivided in the future in order to enable the Planning Board to complete a general planning review of the proposed subdivision, including its relationship to the future subdivision of contiguous land of the applicant. The preliminary plan shall be prepared and shall show at least the information specified on Schedule A.¹⁶

§ 168-25. Preliminary profiles.

Preliminary profiles of proposed streets required to be submitted in connection with an application for approval of a preliminary plat shall be based on field survey or the contours shown on the preliminary plat. Such profiles shall be drawn to a reasonable scale, preferably of one (1) inch equals forty (40) feet or one (1) inch equals fifty (50) feet and a vertical scale of one (1) inch equals four (4) feet or one (1) inch equals five (5) feet, and shall show the existing grades at both street right-of-way lines and the center line as well as the proposed grade of the street at the center line.

§ 168-26. Final plat information.¹⁷

The final plat or minor final plat shall be prepared and shall show at least the information specified on Schedule A.¹⁸ The final plat may be limited to the portion of the tract to be subdivided. Any subdivision of lots to which access is given by a private street shall be shown on a final plat that is separate from a plat showing lots in the tract that have frontage on a proposed village street.

¹⁴ Editor's Note: Schedule A is located at the end of this chapter.

¹⁵ Editor's Note: Schedule B is located at the end of this chapter.

¹⁶ Editor's Note: Schedule A is located at the end of this chapter.

¹⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁸ Editor's Note: Schedule A is located at the end of this chapter.

§ 168-27. Construction plans.

Construction plans for all proposed streets, drainage, sanitary sewers, water mains, sidewalks and other subdivision improvements, including parks and playgrounds, shall be prepared and shall show the information specified on Schedule B.¹⁹ Construction plans shall be supplemented as appropriate by specifications and details. The plans and supplementary information shall be sufficient to enable the Village of Nelsonville to let a contract to complete the improvements in the event of default.

§ 168-28. Grading plan.

The area shown on the grading plan may be limited to the portion of the plat affected by the proposed major regrading, cuts, fills or soil or rock removal, such as but not limited to borrow areas, low areas to be filled and substantial cut or fill areas along proposed streets. The grading plan shall be drawn on good quality heavy linen tracing cloth or polyester film to a scale of one (1) inch equals forty (40) feet or one (1) inch equals fifty (50) feet. Contours and elevations shall be based on the same bench marks as provided on Schedule B.²⁰ The grading plan shall show existing and proposed contours at an interval not exceeding two (2) feet and cross sections if requested by the Planning Board. The grading plan may be shown on the construction plans or preliminary plat.

§ 168-29. Standards for subdivision plats.

Subdivision plats, including related streets, drainage, parks and other improvements and the provision for water supply, sewage disposal and easements, shall be planned, designed and constructed in accordance with the standards hereinafter specified, including the following.

- A. Plans. Construction plans shall be prepared in accordance with good professional design practice. Such plans shall be approved, in writing, by the Planning Board and, at the discretion of the Board, may be required to be approved, in writing, by an engineer or representative designated by the Village Board.
- B. Construction. The construction of improvements shall be carried out in a workmanlike manner in accordance with the time limits approved by the Planning Board and in accordance with an accepted construction program. All construction shall be subject to inspection and notification as follows.
 - (1) The Planning Board and the Village Board or an engineer or representative designated by the Village Board shall have free access to the construction work at all times and shall be deemed authorized to take materials samples, cores and other tests as deemed necessary to determine compliance with the standards of these regulations.
 - (2) The Planning Board, Village Board or representative designated by the Village Board may require the applicant, at the applicant's expense, to have such tests made and

¹⁹ Editor's Note: Schedule B is located at the end of this chapter.

²⁰ Editor's Note: Schedule B is located at the end of this chapter.

certified by a land surveyor or professional engineer, or both, as required or permitted by law.

- (3) Other municipal agencies and state and county agencies having regulatory jurisdiction over portions of the plat shall also have free access to the construction work at all times.
 - (4) The applicant or his contractor or agent shall give timely notice to the Planning Board or engineer or representative designated by the Village Board at commencement and completion of each phase of the work in accordance with procedures as may hereafter be adopted by the Village Board or Planning Board.
- C. Details and specifications. The Village Board or the Planning Board, with the approval of the Village Board, may adopt details and specifications to supplement the standards of these regulations, such as with regard to but not limited to materials to be used, manner of construction, design of typical drainage appurtenances and other features of street, drainage, water supply, sanitary sewer and other subdivision improvements. The planning, design and construction of improvements for the subdivision plat shall conform to such details and specifications.

§ 168-30. Submission of construction program.

In connection with the submission and approval of construction plans and grading plans, the Planning Board may require the applicant to submit a construction program and schedule, specifying the timing and sequence of construction steps, including provision for:

- A. Soil erosion and sediment control.
- B. The completion and operative condition of various phases of streets and drainage facilities.
- C. The installation of underground utilities and connections to lots.
- D. The method and location for disposal of trees, stumps, excess earth materials and construction debris.

§ 168-31. Alternate standards.

The Planning Board may approve alternate design and construction standards when:

- A. Such standards are prepared by a professional engineer licensed by the State of New York;
- B. The Planning Board determines that such standards will be in accord with the purpose and intent of these regulations; and
- C. If constituting a modification of standards specified in other local laws or regulations, such alternate standards are approved by the agency responsible for administration of such laws or regulations.

§ 168-32. Conformity to Master Plan.

Subdivision plats shall be planned and designed in general conformity with any Comprehensive Master Plan, adopted by the Planning Board under § 7-722 of the Village Law for the village or the neighborhood encompassing the plat, particularly with regard to but not limited to the location and classification of streets, water supply, sanitary sewer and drainage systems and service areas and provision of a park or parks for playground or other recreational purposes.

§ 168-33. Conformity to Official Map.

Subdivision plats shall be planned and designed to conform to any Official Map adopted by the Village Board under the provisions of § 7-724 of the Village Law, particularly with regard to the location, classification, standards and layout of streets, highways, drainage systems and parks. In accordance with § 7-732 of the Village Law, any proposed village street or park shown on an approved and filed final plat automatically becomes a part of the Official Map of the village.

§ 168-34. Natural features.

- A. The planning, design and construction of the subdivision plat, including related streets, drainage and other improvements, shall provide for preservation of natural features of the tract as follows:
- (1) By avoiding cuts or fills which result in potential soil erosion, sedimentation and excessive tree removal or which adversely affect or degrade water resources.
 - (2) By avoiding relocation of or encroachment upon natural watercourses and ponds.
 - (3) By avoiding filling or excavation of or encroachment upon wetlands, flood hazard areas and other land subject to potential flooding.
 - (4) By avoiding removal of large isolated trees and desirable vegetation as well as extensive clearing or clear cutting of wooded areas.
 - (5) By providing for preservation of wetlands, watercourses and water bodies and for the protection thereof by easement, reservation area or other controls to prevent excavation, filling or encroachment.
- B. The planning, design and construction of the subdivision plat, including related streets, drainage and other improvements, shall provide for preservation of natural features of the tract, provided that the Planning Board may approve plans which modify such natural features after consideration of the alternatives to such modification and the community benefits which may be achieved and when any required permission for modification has been obtained by the applicant from any regulatory agency having jurisdiction.

§ 168-35. Building lots.

- A. Proposed building lots shall be of such shape, size, location, topography, access and character as to be occupied and used for building purposes, whether dwelling, business or

industrial, as permitted by law, without danger to the health and safety of the occupants, the neighborhood or the public. Any area of land proposed as a lot and found unsuitable for occupancy or building, such as by reason of water or flooding conditions, topography, unsuitable soils or other conditions, shall be combined with a contiguous lot that is suitable.

B. Proposed building lots shall also conform to the following additional standards:

- (1) Use. Proposed building lots shall have a shape, size and access suitable for the intended use, whether for dwelling or other purposes, in accordance with the zoning district where located.
- (2) Lot size and zoning. Each lot shall conform to Chapter 188, Zoning, of the Code of the Village of Nelsonville, New York, unless required by these regulations to be larger, as follows.
 - (a) To accommodate on-site water supply and/or sewage disposal systems.
 - (b) When sole access to the lot is given by a private street created after the effective date of these regulations, in which case each lot shall contain an area of one hundred twenty thousand (120,000) square feet or more and shall be of such shape that a square with two hundred fifty (250) feet on each side will fit on the lot.²¹
 - (c) To comply with other requirements of § 168-29.
- (3) Access. Each lot shall have access on a village street or a state, county or Town of Philipstown highway or a street shown upon a subdivision plat approved by the Planning Board. In addition, each lot shall be capable of accommodating vehicular access from such street, highway or private street to a parking space or spaces on the lot by means of a driveway having a safe alignment and sight distances, having a grade no greater than fourteen percent (14%) and meeting the street, highway or private street in a manner that maintains the standard cross section therefor in accordance with its classification under § 168-36 or the specifications of the agency of government having jurisdiction.²²
- (4) Terrain. Proposed building lots shall be planned to make best use of the natural terrain, to preserve substantial trees, woods and water resources and to avoid extensive regrading, particularly any regrading which would adversely affect the ability of the lot to accommodate on-site sewage disposal and/or water supply facilities or result in potential soil erosion and sedimentation.
- (5) Lot numbers. All lots shall be numbered consecutively beginning with the numeral "1." Sections of a subdivision plat under the same name shall have consecutive lot numbers. Letter designations, however, may be used for revision of lots.

²¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (6) Municipal boundary. In the event that a lot, crossed by a municipal boundary, is to be approved, the portion of the lot within the Village of Nelsonville shall conform in all respects to Chapter 188, Zoning, and these regulations.
- (7) Water supply and sewage disposal. Each lot shall be provided with water supply and sewage disposal systems, whether by on-site or central system, meeting the rules and regulations of and approved by the Putnam County Department of Health. Any proposed lot shown on a preliminary plat and deemed by the Planning Board to be unsuitable for on-site water supply and/or sewage disposal systems may be disapproved by the Board at the time of preliminary consideration, but such lot may be shown on the final plat if approved for on-site systems by the Putnam County Department of Health.

§ 168-36. Street planning and design.

Streets shall be planned and designed in accordance with the following:

- A. Classification. Each street in the subdivision plat shall have one (1) of the following classifications in accordance with the function and location of the street as approved by the Planning Board.
 - (1) Village street. A street primarily providing access to abutting lots and proposed to be offered for cession and accepted by the Village of Nelsonville as a public street.
 - (2) Private street. A street that is a private right-of-way or easement providing access to abutting lots, each used solely for a dwelling containing one (1) or two (2) families, or dwellings authorized under § 7-738 of the Village Law, and when such private right-of-way or easement is clearly identified on the final plat as being privately owned and privately maintained and not offered for acceptance by the Village of Nelsonville.²³
- B. Street planning. Proposed streets and rights-of-way shall be planned in accordance with the following criteria:
 - (1) Streets shall provide safe and convenient circulation for both present and prospective traffic within the subdivision plat and within the neighborhood where the plat is located, taking into account, among other factors, the topography of the neighborhood, the amount of traffic and access for fire protection, emergency vehicles and other public services.
 - (2) Each village street shall connect to an existing village street, an existing public street in the Village of Cold Spring or an existing state, county or Town of Philipstown highway or otherwise to a street, other than a private street, shown upon a subdivision plat approved by the Planning Board and over which the applicant has rights of access.²⁴

²³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- (3) Each private street shall connect as required for a village street or otherwise to another private street approved by the Planning Board and over which the applicant has rights of access.²⁵
 - (4) The Planning Board, in authorizing a private street, shall determine that the private access proposed and the extent of construction and improvement to be provided is sufficient to meet the other street planning criteria of these regulations and that a provision of a village street is not requisite in the public interest.²⁶
 - (5) Streets should in general follow the contour of the land and should have a location and grade which accomplishes an attractive layout and development of the land, which preserves natural terrain, large isolated trees and desirable vegetation and wooded areas and which will enhance property values in the subdivision plat.
 - (6) Proposed streets which may be projected into adjoining property shall be carried to the boundary line. No reserve strips to block access to a street shall be provided unless specifically approved by the Planning Board as necessary for safety on the street.
 - (7) Unless otherwise approved by the Planning Board, proposed village streets shall provide for continuation of existing village streets terminating at the boundary of the subdivision.
- C. Right-of-way. Streets shall have the following minimum width of right-of-way according to their classification or such greater width as approved by the Planning Board as necessary for anticipated traffic capacity, type of traffic, turning movements and construction requirements.
- (1) Village street: fifty (50) feet.
 - (2) Private street: fifty (50) feet.²⁷
- D. Street lines. Street lines on each side of a proposed street shall be parallel or shall be concentric arcs, except in intersections and turnarounds designed in accordance with these regulations. No street right-of-way shall be widened beyond the width specified in these regulations for the purpose of securing additional street frontage for proposed lots.
- E. Existing streets. Proposed subdivisions abutting an existing village street shall provide for proper or proportionate widening of the right-of-way of such street to the width assigned under Subsection C.
- F. Dead-end streets. Streets permanently closed at one end and temporary dead-end streets which may be projected into adjoining property at a future date shall not exceed a length for safe and convenient access, including emergency vehicles, as approved by the Planning Board. In general, the maximum permitted length of a street to which there is only one (1) point of entrance is one thousand two hundred (1,200) feet. The Planning Board may consider additional length when alternate emergency access is provided.

²⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- G. Turnarounds. A turnaround shall be provided at the closed end of a dead-end street as follows:
- (1) Village street. The turnaround shall have a diameter of one hundred (100) feet. The right-of-way for a turnaround on a temporary dead-end street, which may at some future date be projected into adjoining property, shall be provided in the form of a temporary easement noted on the final plat.
 - (2) Private street. The turnaround shall have a diameter of seventy-five (75) feet or may be a hammerhead- or branch-type turnaround capable of accommodating the turn and backing movements of a vehicle forty (40) feet in length.²⁸
- H. Controlled access to certain streets. In general, the layout of building lots and streets, unless otherwise approved by the Planning Board, shall avoid vehicular driveway access to lots from state highways and county roads. Where such driveway access is approved by the Planning Board, the Board may specify the location of such access or require combined driveways to serve two (2) or more lots.
- I. Width of pavement. Streets shall be designed with the following width of pavement centered between the right-of-way lines:
- (1) Village street: twenty (20) feet.
 - (2) Private street: fourteen (14) feet.²⁹
- J. Grade. The minimum grade for any street shall be one percent (1%), and the maximum grade shall not exceed the following:
- (1) Village street: ten percent (10%).
 - (2) Private street: fourteen percent (14%).³⁰
 - (3) Turnaround: three percent (3%).
- K. Intersections. The following standards shall apply to street intersections:
- (1) No more than two (2) streets shall intersect at one (1) point. Intersections shall be spaced not less than four hundred (400) feet apart or such lesser distance that may be in accord with good engineering practice at the particular location.
 - (2) Streets shall intersect one another at as near to a right angle as possible; no intersection shall be at an angle of less than sixty degrees (60°).
 - (3) At street intersections, property line corners shall be rounded by an arc having a minimum radius of twenty-five (25) feet.
- L. Alignment. Connecting curves between tangents shall be provided for all deflection angles in excess of five degrees (5°). Suitable tangents, not less than one hundred (100) feet, shall

²⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

²⁹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³⁰ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

be provided between reverse curves, and the minimum radius of curvature at the center line of streets shall be as follows:

- (1) Village street: two hundred (200) feet.
- (2) Private street: seventy-five (75) feet.³¹

M. Street names. Streets shall bear names which are appropriate to the character of the village and which do not duplicate or too closely approximate in spelling or sound existing street names elsewhere in the Town of Philipstown. All street names shall be subject to the approval of the Village Board.

§ 168-37. Drainage planning and design.

Storm drainage shall be planned and designed in accordance with the following standards:

- A. General. The storm drainage system shall provide for drainage from the entire area of the subdivision plat and shall take into account land outside the plat which normally drains across the area of the plat as well as the effects of the plan upon downstream drainage systems. The drainage systems for the subdivision plat shall make use of and protect and improve, as needed, the natural drainage system; artificial ditches are to be avoided. The drainage system shall provide for the following:
- (1) Adequate drainage of proposed streets, including future extensions thereof into adjoining property, and adequate drainage from existing streets that are extended into the plat.
 - (2) Interception or management of existing channeled drainage coming from any adjoining property or street.
 - (3) Protection of locations necessary for on-site sewage disposal and water supply facilities.
 - (4) Prevention of flooding, soil erosion and sedimentation.
 - (5) On-site detention where feasible in order to lessen the time of downstream concentration and provide for continuity of flow in watercourses.
- B. Encroachment lines. Floodways and each stream that functions as part of the drainage system and any related wetlands and floodway fringe shall be provided with channel, building or other encroachment lines to prevent encroachment, constriction or diversion by building, excavation, grading or filling. The encroachment lines shall be shown on the final plat accompanied by a note specifying the restrictions in a manner approved by the Planning Board.³²

³¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³² Editor's Note: See Ch. 95, Flood Damage Prevention, and Ch. 99, Freshwater Wetlands.

§ 168-38. Summary design schedule; typical cross section.

The following schedule and cross-section drawing are hereby declared to be a part of these regulations:

- A. Schedule C: Summary of Design Standards.³³
- B. Typical Cross Section of Village Street, dated July 18, 1985.³⁴

§ 168-39. Special structures.

Bridges, box culverts, deep manholes and other special structures shall be designed and constructed, where required, in accordance with good engineering practice and as approved by the Planning Board or the engineer or representative designated by the Village Board.

§ 168-40. Trails.

Certain tracts that may be subdivided in the future are crossed by long-established, marked and regularly used trails primarily for recreation travel on foot, horseback or skis. Unless otherwise approved by the Planning Board, the subdivision plat shall provide for the continued reservation and use of such trails by means of rights-of-way or easements shown on the plat; provided, however, that the plan for the subdivision may include relocation of a trail to another practical location and preparation thereof to a usable condition in order to coordinate with other features of the plat. Rights-of-way or easements may be granted to the Village of Nelsonville, if accepted by the Village Board, or to another organization established for the purpose of administering trail systems.

§ 168-41. Easements.

Easements for access to and use of land outside of a street right-of-way shall be provided as required or approved by the Planning Board and shall be shown on the final plat with adequate survey information so that the land subject to easement may be accurately located by field survey. Easements shall be provided in at least the following cases:

- A. For access to bridges and culverts with construction and maintenance equipment on streets to be dedicated to the village.
- B. For stormwater pipes, water mains and sanitary sewers and appurtenances, which easements shall be not less than twenty (20) feet in width.
- C. Easements for temporary turnarounds as provided in § 168-36G(1).
- D. Temporary construction easements for grading and other construction work in the front twenty-five (25) feet of each lot along a proposed village street.

³³ Editor's Note: Schedule C is located at the end of this chapter.

³⁴ Editor's Note: The Typical Cross Section of Village Street drawing is located at the end of this chapter.

- E. Where deemed necessary by the Planning Board, sight easements across corners of lots at intersections to assure safe line of sight on the street.
- F. Easements at least ten (10) feet in width for pedestrianways to parks, playgrounds and other public or semipublic places where the street system does not conform to a convenient pattern of pedestrian circulation.
- G. Easements for trails as provided in § 168-40.

§ 168-42. Sidewalks.

Sidewalks shall be installed in places deemed necessary by the Planning Board, such as but not limited to in pedestrian easements and along village streets in the vicinity of parks and playgrounds and other public and semipublic places.

§ 168-43. Erosion and sediment control.³⁵

Provision shall be made for control of erosion and sedimentation, both during and after construction of streets, drainage, parks and other improvements. The Erosion and Sedimentation Control Handbook of the United States Department of Agriculture, Soil Conservation Service, is an acceptable basis for design and construction. The soil erosion and sediment control plan shall provide as follows:

- A. The development shall be fitted to the topography and soils so as to create the least erosion hazard.
- B. Wherever feasible, natural vegetation shall be retained and protected and only the smallest practical area of land shall be exposed at any one (1) time during construction.
- C. When land is exposed during construction, the exposure shall be kept to the shortest practical period of time.
- D. Where appropriate, temporary vegetation and/or mulching shall be used to protect areas exposed during construction.
- E. Hay bales, silt screens and sediment basins, including debris basins, desilting basins or silt traps, shall be installed and maintained to remove sediment from runoff waters from land undergoing development.
- F. Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after construction.
- G. The permanent final vegetation and structures shall be installed as soon as practical.

§ 168-44. Fire protection.

When the plat is to be served by public water supply, fire hydrants shall be installed in places deemed proper by the Chief of the Nelsonville Fire Department. When recommended by the

³⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chief, the Planning Board may require that suitable existing ponds or year-round streams within the plat be designated as available for fire protection purposes and be provided with suitable permanent access by means of a driveway and/or hydrant for use in connection with village fire protection services. Where there is no existing pond, the Planning Board may, where feasible, require the creation of such a pond on a watercourse within the plat if recommended by the Chief and approved by any agency having regulatory jurisdiction over the watercourse. As recommended by the Chief, the Planning Board may require the provision of suitably improved fire access rights-of-way, such as between nearby dead-end streets, so as to assure alternate access for emergency services.

§ 168-45. Parks and recreation areas.

In subdivision plats establishing lots used for residential purposes, a park or parks, suitably located for playground or other recreational purposes, shall be provided within the plat when required by the Planning Board. The maximum area of such park which may be required by the Planning Board is ten percent (10%) of the total area covered by the plat. The park area provided shall be of such size, location, shape, topography and general character as to be useful to satisfy the needs determined by the Planning Board. Proper pedestrian and vehicular access shall be provided to each such park area.

- A. Payment in lieu of reservation. If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located within the plat or is otherwise not practical, the applicant shall pay to the village a sum, specified in accordance with § 168-8, to be used by the Village Board exclusively for neighborhood park, playground or recreation purposes, including the acquisition of property. The entire Village of Nelsonville, comprising approximately one (1) square mile, is considered to be a single neighborhood.
- B. Ownership. When a park area is provided in a subdivision plat, the parkland shall either be dedicated to the village or shall have a method of ownership, operation and maintenance, whether by means of a neighborhood association, special district, cooperative or otherwise, specified by the applicant and approved by the Planning Board.

§ 168-46. Underground utility wires.³⁶

New electric, telephone and cable television wires shall be installed consistent with Chapter 188, Zoning. In making such a determination, the Planning Board shall take into account the type of service existing in the area adjacent to the plat, topographic and construction conditions and the size of the plat.

§ 168-47. Conditions for waiver.

The Planning Board, upon written request by the applicant, may waive specific provisions of these regulations that in its judgment of the particular circumstances of a proposed plat are not requisite in the interest of public health, safety and general welfare or that are inappropriate

³⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

because of the inadequacy or lack of connecting facilities adjacent or in proximity to the proposed plat. Waivers may be granted by the Planning Board subject to conditions deemed necessary to support the purpose and intent of these regulations. No waiver, however, shall be granted which would limit, reduce or impair the effectiveness of any other law applicable to the plat.

§ 168-48. Conflict with other provisions; severability.

- A. Omission from these regulations of any requirement authorized to be imposed by statute shall not preclude the Planning Board from imposing such requirement by resolution adopted by such Planning Board in connection with approval or conditional approval of any plat.
- B. If any section, paragraph, sentence, clause or phrase of these regulations shall for any reason be held to be invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect or impair the validity of any other section or remaining portion of these regulations.
- C. If any section, paragraph, sentence, clause or phrase of these regulations shall for any reason be held to be invalid or unconstitutional, as applied to a particular plat or plat application, by a decree or decision of any court of competent jurisdiction, such decree or decision shall be limited to the particular plat or plat application, and the general applicability of these regulations to other plats and plat applications shall not be affected.

§ 168-49. Adoption procedure; when effective.³⁷

These regulations and any amendments are adopted by the Board of Trustees of the Village of Nelsonville and as recommended by the Nelsonville Planning Board, after due notice and public hearing as required by law, and shall be in full force and effect from the date of adoption.

§ 168-50. Penalties for offenses.³⁸

Any violation of any of the provisions of this chapter shall be punishable by a fine not to exceed fifteen (15) days or imprisonment not to exceed two hundred fifty dollars (\$250.), or both such fine and imprisonment.

³⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

³⁸ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

SUBDIVISION OF LAND

Village of Nelsonville, New York Subdivision of Land Schedule A: Standards for Maps

- A-1. Preparation. Preliminary plats (PP), minor final plats (MP) and other final plats (FP) shall be clearly and legibly drawn on good quality translucent cloth, polyester film or other material that will enable production of clear prints as required by the regulations. These plats shall be prepared by and shall bear the name and seal of a land surveyor or engineer, or both, as required by law and licensed as such by the State of New York.
- A-2. Preliminary plat. The PP shall be drawn to a scale of not less than one (1) inch equals one hundred (100) feet and, if drawn to the same scale as the FP, may show plan-drawing elements required for the construction plans (See Schedule B as follows). The PP may be drawn on a reproducible of the FP.
- A-3. Minor final plat and other final plat. The MP and FP shall be prepared on sheet sizes not less than twenty by twenty (20 x 20) inches nor larger than thirty-six by forty-eight (36 x 48) inches, and the map scale should preferably be one (1) inch equals forty (40) feet but in no case less than one (1) inch equals one hundred (100) feet. The plat presented for endorsement and filing shall have the seal of the land surveyor or engineer, or both, impressed thereon and shall be a print on good quality translucent cloth or polyester film three thousandths (.003) thick or better.
- A-4. Information on maps. All prints of maps and plans shall be clear and legible and shall be bound along the left side with required identifying data on each sheet. North arrows shall, to the extent practical, be consistent from one map to the other and shall be to the top or right side of the sheet depending upon the shape of the subdivision. Where designated by the code "x," the following information is required to be shown on the PP, MP and/or FP to the extent that the information occurs in or is applicable to the particular subdivision:

Plat Type

PP MP FP

Information

- | | | | | |
|---|---|---|----|--|
| x | x | x | 1. | Title of the subdivision, which shall not duplicate the title of any previous subdivision in the Village of Nelsonville or Town of Philipstown. |
| x | x | x | 2. | Date, scale, visual scale, North point, village, town, county and state. |
| x | x | x | 3. | A location map showing the location of the subdivision in relation to existing streets in the village and town, at a scale of not less than one (1) inch equals one thousand (1,000) feet. |
| | x | x | 4. | An index map, if the proposed subdivision is divided into sections or is of such size that more than one (1) sheet is required, showing the entire subdivision with lots, lot numbers, streets, street names, delineation of areas covered by the section or street and match lines between sections. |
| | | | 5. | Information on site conditions and land evaluations as follows: |
| x | | x | a. | Existing and proposed grading contours at an interval not exceeding five (5) feet meeting or exceeding map accuracy standards of the Specifications for Survey Mapping for Highway Purposes, published by the New York State Department of Transportation, for maps having a scale of one (1) inch equals one hundred (100) feet and based on field or aerial survey and using the bench mark as required for Construction Plans on Schedule B (as follows). |
| x | x | x | b. | Existing permanent buildings and structures. |
| x | | | c. | Any ledge outcrops. |
| x | | | d. | Location of existing stone walls and fences. |

NELSONVILLE CODE

| Plat Type | | | Information |
|-----------|----|----|--|
| PP | MP | FP | |
| x | x | x | e. Existing watercourses. |
| x | x | x | f. Exterior limits of freshwater wetlands, which shall be confirmed by competent soil tests and survey in the field if requested by the Planning Board under § 168-13 or 168-14. |
| x | x | x | g. Any areas subject to frequent, periodic or potential flooding; the boundaries of any special flood hazard areas and floodways and the base flood elevation data therefor; and the lowest floor elevations that would be applicable for a building on any lot in any special flood hazard area in accordance with Chapter 95, Flood Damage Prevention. |
| x | | | h. Boundaries and classification codes of soil types from the United States Department of Agriculture, Soil Conservation Service sources. |
| x | | | i. The existing mix of forest tree species, their approximate height, age and density and a description of the cutting or removal activities to be undertaken and any other information that may be necessary and reasonably required. |
| x | | | j. Location of any percolation test holes, deep test pits and borings. |
| x | | | k. Approximate location of any existing wells on the tract and on land within two hundred (200) feet of the tract. |
| x | x | x | l. The location of any drainage discharge points onto the tract from any street or other property. |
| | | | 6. Property ownership information and proposals as follows, with all lines on an MP or FP, except as noted, drawn with dimensions to the hundredth of a foot, bearings or deflection angles on all straight lines and the central angle, tangent distance and radius of all arcs. |
| x | x | x | a. Name and address of the owner of the tract. |
| x | x | x | b. Name and address of the applicant if different from the owner. |
| x | | | c. The perimeter boundary of the tract, with approximate dimensions, and the estimated area of the tract to be subdivided. |
| | x | x | d. The perimeter boundary of the tract, and the area of the tract to be subdivided. |
| x | x | x | e. The approximate location of existing property lines for a distance of two hundred (200) feet from the tract. |
| x | x | x | f. Both street right-of-way lines of any street abutting or within two hundred (200) feet of the tract. |
| | x | x | g. The survey relationship of the tract to nearby monumented village streets, town streets, county roads or state highways where practical. |
| x | x | x | h. Names of all owners of property abutting the tract, as derived from the chain of title of the tract. |
| x | | | i. Proposed lots and lot numbers and the approximate area of each lot. |
| | x | x | j. Proposed lots and lot numbers and the square footage or acreage of each lot with dimensions and areas. |
| x | x | x | k. Proposed streets and other rights-of-way and the width thereof. |

SUBDIVISION OF LAND

| Plat Type | | | Information |
|-----------|----|----|--|
| PP | MP | FP | |
| | x | x | l. Street names. |
| x | x | x | m. Location and dimension of existing and proposed easements. |
| x | x | x | n. Existing monuments. |
| | x | x | o. Proposed monuments. |
| x | | | p. The zoning district in which the tract is located and any zoning district upon or within two hundred (200) feet of the tract. |
| x | x | x | q. Any municipal or taxation district boundary line. |
| x | | | r. Any building setback lines set by zoning, Village Law or other law. |
| x | x | x | s. Any channel and building lines. |
| x | x | x | t. Existing and proposed open spaces for parks and playgrounds and other open space purposes and the square footage or acreage thereof. |
| x | x | x | u. Any reserved areas for watercourses and wetlands protection or for conservation areas. |
| x | x | x | v. Any encroachment lines along rivers and watercourses. |
| | | | 7. Proposals for development of the subdivision as follows: |
| x | | | a. Location and width of street pavement, including location of pavement on existing streets. |
| x | | | b. Center-line stations along the proposed street at one-hundred-foot intervals, coordinated with the preliminary profiles. |
| x | | | c. Storm drains, catch basins, manholes, ditches, headwalls, detention basins, sidewalks, gutters, curbs and other structures and tentative invert elevations at key points on the proposed drainage system. |
| x | | | d. Any relocation or construction for channels or watercourses. |
| x | | | e. Any sanitary sewers, treatment facilities and appurtenances. |
| x | | | f. Any central water supply well site, water mains, hydrants and appurtenances. |
| x | | | g. On each lot, the location proposed for water supply well sites, the location and dimensions of the area suitable for leaching fields for on-site sewage disposal systems and reserve area for future extensions, and the tentative location proposed for a dwelling or other principal building and a driveway thereto. |
| x | x | x | h. On each lot near watercourses, water bodies, wetlands and flood hazard areas, the proposed floor elevation of the lowest floor of a dwelling or other principal building. |
| x | | | i. The limits of any area proposed for major regrading, cuts, fills or soil or rock removal. |
| x | | | j. The limits of any areas proposed to be reserved and protected from excavation or filling. |

NELSONVILLE CODE

| Plat Type | | | Information |
|-----------|----|----|--|
| PP | MP | FP | |
| | | | 8. The following additional information: |
| x | x | | a. Certification by the land surveyor that the survey on which the map is based does not have an error of closure which exceeded one (1) part in five thousand (5,000.) |
| x | x | | b. Certification by the land surveyor as to the date of completion of the survey on which the map is based and the date of completion of the map. |
| x | x | | c. A signature block entitled "Approved by the Nelsonville Planning Board," with a place for signature and date. |
| x | x | | d. A signature block for the owner and/or applicant authorizing filing of the plat. |
| x | x | | e. The endorsement of the Putnam County Department of Health approving the provision for water supply and sewage disposal. |
| x | x | | f. Such additional notes as may be required or approved by the Planning Board specifying applicable zoning provisions or restrictions pertaining to private rights-of-way, channel and building lines, reserved areas, easements and other features of the plat. |

SUBDIVISION OF LAND

Village of Nelsonville, New York Subdivision of Land Schedule B: Standards for Construction Plans

- B-1. Preparation. Construction plans shall be clearly and legibly drawn on good quality translucent cloth, polyester film or other material that will enable production of clear prints as required by the regulations. The construction plans, including details and specifications, shall be prepared by and shall bear the name and seal of an engineer licensed as such by the State of New York; provided, however, that particular elements of the plan, as authorized by law, may be prepared by a licensed land surveyor or by other qualified professionals. The plans shall be prepared in accordance with good engineering and professional practice, acceptable to the Planning Board and Village Board.
- B-2. Format. All construction plans shall be prepared on a sheet size of thirty-six by twenty-four (36 x 24) inches, and plan drawings shall have a horizontal scale of one (1) inch equals forty (40) feet, while profile and cross-section drawings shall have a vertical scale of one (1) inch equals four (4) feet. Drawings of special structures and details may be on other format acceptable to the Planning Board. Prints of plans shall be bound on the left side with required identifying data on each sheet. As appropriate, certain construction plan elements may be shown on the PP or FP. The reproducible plans presented under § 168-15C shall have the seal of the preparer impressed thereon and shall be a print on good quality translucent cloth or polyester film three thousandths (.003) thick or better.
- B-3. Bench marks. Profile drawings, inverts, existing and proposed contours and key elevations shall be based on official village, state or United States bench marks. The bench marks used shall be consistent among the PP, FP and construction plans and shall be noted on those plans.
- B-4. Information on plans. The following information is required to be shown on the construction plans as applicable to the particular subdivision:
1. Title of the subdivision as in Section A-4, Subsection 1, of Schedule A.
 2. Date, scale, visual scale, North point, village, county and state.
 3. For streets:
 - a. Existing profile grades at the center line and both right-of-way lines.
 - b. Proposed profile grades and key elevations at the center line.
 - c. Right-of-way lines, the edge and width of pavement and stations at fifty-foot intervals.
 - d. Pavement radii at corners.
 - e. Typical street cross section.³⁹
 - f. A cross section at all cross culverts.

³⁹ Editor's Note: See Typical Cross Section of Village Street diagram which follows.

NELSONVILLE CODE

- g. Cross sections at fifty-foot intervals where there are to be substantial cuts and fills affecting abutting lots.
 - h. On plan drawings, the approximate location of lot lines intersecting the right-of-way line and the lot numbers from the FP.
 - i. Sidewalks, curbs and gutters.
 - j. Locations for guide rails or posts.
 - k. Street names.
- 4. For drainage, sanitary sewers and pipe systems:
 - a. Location, depth, invert, slope and size of all pipes, culverts, manholes and catch basins.
 - b. Cross section, depth, slope and location of all ditches and swales.
 - c. Manholes.
 - d. Catch basins.
 - e. Headwalls.
 - f. Watercourses.
 - g. Water mains and hydrants.
 - h. Sanitary sewers and appurtenances.
 - 5. Detail drawings of bridges, box culverts, deep manholes, retaining walls and other special structures.
 - 6. Design for any temporary or permanent stormwater detention.
 - 7. Provision for control of erosion and sedimentation, both during and upon completion of construction (See §§ 168-29 through 168-46).
 - 8. At intersections and other locations where there may be sight distance restrictions, proposed grading contours at two-foot intervals.
 - 9. Pertinent survey data and computations to enable the Planning Board, Village Board or their authorized agent to review the drainage design and the sufficiency of downstream drainage systems to accommodate runoff from the subdivision.
 - 10. A signature block entitled "Approved by the Nelsonville Planning Board," with a designated place for the signature and the date.

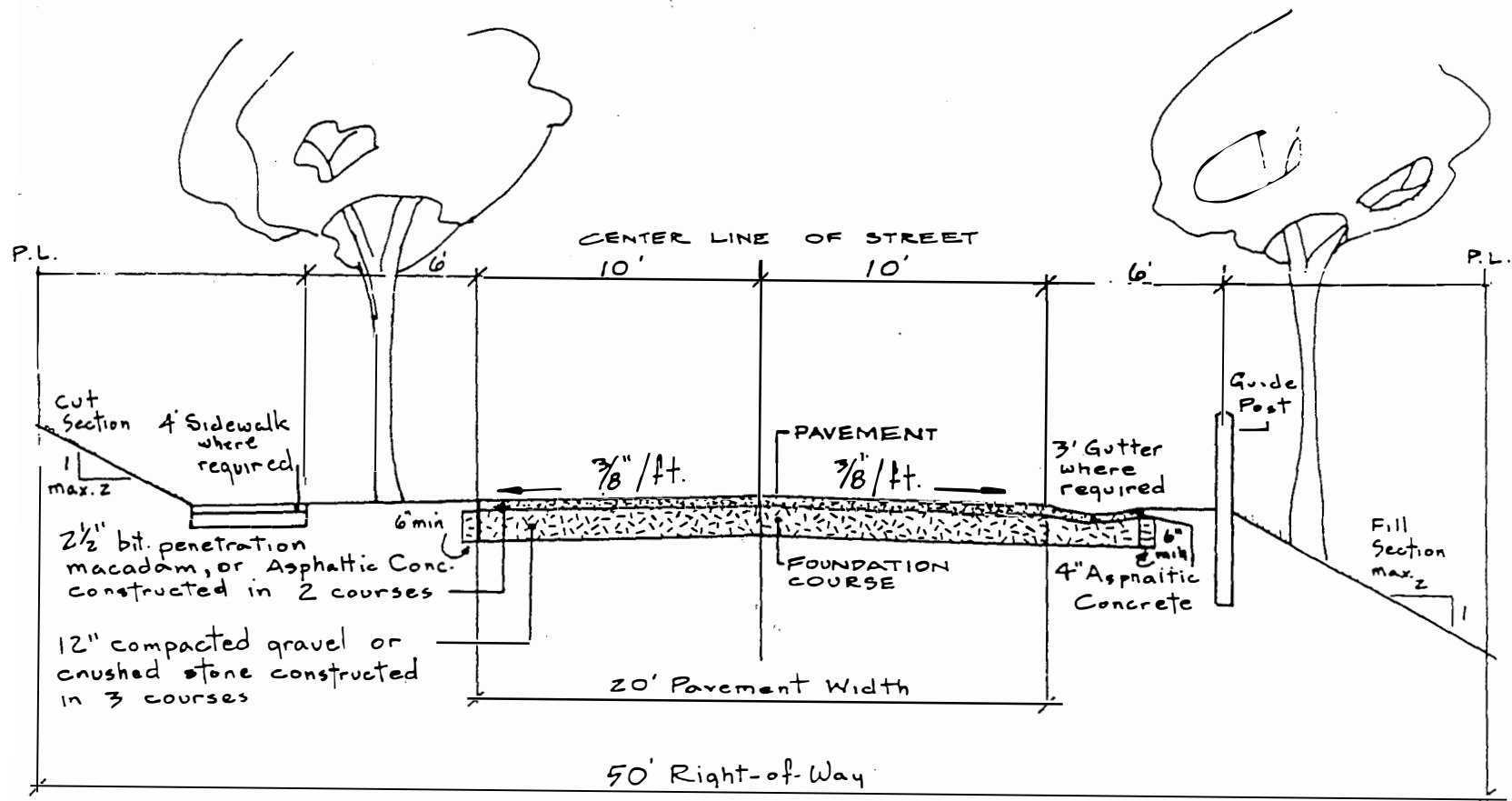
SUBDIVISION OF LAND

Village of Nelsonville, New York Subdivision of Land Schedule C: Summary of Design Standards

| Design Element | Village Street | Private Street |
|---|-------------------|-------------------|
| Right-of-way width (feet) | 50 | 50 |
| Pavement width (feet) | 20 | 14 |
| Minimum radius of horizontal curvature at center line (feet) | 200 | 75 |
| Minimum radius of horizontal curvature at intersections: | | |
| a. Right-of-way (feet) | 25 | 25 |
| b. Pavement (feet) | 35 | 35 |
| Minimum grade (percent) | 1 | 1 |
| Maximum grade: | | |
| a. Street (percent) | 10 | 14 |
| b. Turnaround (percent) | 3 | 3 |
| Minimum sight distance at intersection, 4 inches to 4 feet (feet) | 300 | 150 |
| Minimum length of vertical curve (A = algebraic sum of grade; K = 25) | $L = KA$ | $L = KA$ |
| Turnaround: | | |
| a. Right-of-way radius (feet) | 100 | 37.5 |
| b. Pavement radius (feet) | 50 | 37.5 |
| Minimum length of tangent between reverse curves (feet) | 100 | 100 |
| Foundation course thickness (gravel or crushed stone)(inches) | 12 | 12 |
| Pavement and thickness: | | |
| a. Bituminous penetration macadam (inches) | 2½ | 2½ |
| b. Asphaltic concrete binder course (inches) | (Alternate) 1½ | (Alternate) 1½ |

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| Design Element | Village Street | Private Street |
|--|-------------------|-------------------|
| c. Asphaltic concrete wearing course (inches) | (Alternate) 1 | Alternate) 1 |
| Sidewalks (four-foot width, as specified by Planning Board) | Where required | |
| Monuments (at sufficient deflection/tangent points) | Required | Required |
| Catch basins (maximum spacing on continuous grade) (feet) | 300 | 300 |
| Drainage pipe: | | |
| a. Reinforced concrete/ corrugated metal | Required | Required |
| b. Minimum diameter (inches) | 15 | 15 |
| c. Headwalls, pipe ends | Required | Required |
| Street name signs | Required | Required |



TYPICAL CROSS SECTION
 VILLAGE STREET
 Village of Nelsonville, New York
 July 18, 1985



Chapter 172

TAXATION

ARTICLE I

Senior Citizens Tax Exemption

[The senior citizens tax exemption for residents of the Village of Nelsonville shall be as set forth by the Town of Philipstown.]

GENERAL REFERENCES

Assessment — See Ch. 6.



Chapter 175

TREES

§ 175-1. Permit required for injury or removal; fees.

§ 175-2. Penalties for offenses.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 12-28-1931 as Ch. VI, Sec. 60, of the 1931 Code of Ordinances; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 74.
Solid waste — See Ch. 162.

Streets and sidewalks — See Ch. 165.

§ 175-1. Permit required for injury or removal; fees.

No person shall in any way mutilate, cut down, injure or destroy any shade or ornamental tree upon the streets, sidewalks or parks adjacent to public property within said village without a permit, with such fees as shall be set forth from time to time by resolution of the Board of Trustees, from the Mayor.

§ 175-2. Penalties for offenses.

Any person violating any provision of this chapter shall forfeit and pay a penalty not to exceed two hundred fifty dollars (\$250.) or shall be subject to imprisonment not to exceed fifteen (15) days, or both, for each offense.



Chapter 178

VEHICLES AND TRAFFIC

[Traffic legislation for the Village of Nelsonville is currently under review by the Board of Trustees. Upon completion of such review, said legislation will be included in this chapter.]



Chapter 184

WATER AND SEWERS

§ 184-1. Maintenance responsibilities; ownership.

§ 184-2. Assessment upon noncompliance; emergencies.

§ 184-3. Supersession of statute.

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 7-3-1995 as L.L. No. 2-1995. Amendments noted where applicable.]

GENERAL REFERENCES

Solid waste — See Ch. 162.

Zoning — See Ch. 188.

Subdivision of land — See Ch. 168.

§ 184-1. Maintenance responsibilities; ownership.

- A. The owners of all property within the Village of Nelsonville serviced by the Village of Cold Spring water and/or sewer system shall be required to make all improvements, maintenance and/or repairs necessary to maintain, repair and replace as required all private waterlines and private sewer lines which provide service to their respective properties, including but not limited to all private water- and private sewer lines located within the right-of-way of any village street. Each property owner shall pay the entire cost of maintenance, repair or replacement of such water- and sewer lines within the boundaries of his/her real property and shall pay a pro rata share of the cost of maintenance, repair or replacement of the private water- and sewer lines and other installations located within the boundaries of the streets within the Village of Nelsonville which provide service to his/her property.
- B. The property owners serviced by any private water- and sewer lines or installations within the streets of the Village of Nelsonville shall be deemed to be joint owners of such lines or installations.

§ 184-2. Assessment upon noncompliance; emergencies.

In the event that the property owners, as hereinbefore mentioned, shall fail to undertake necessary maintenance, repair or replacement of said lines and installations or otherwise, in case of an emergency, if the Board of Trustees of the Village of Nelsonville shall cause such maintenance, repair or replacement to be done on such property and/or lines or installations or a contract has been awarded therefor by the Board of Trustees, the cost of such improvement, work or act shall be assessed, levied and collected as a special assessment pro rata against the property serviced by said water- and sewer lines and installations.

§ 184-3. Supersession of statute.

This chapter is intended to supersede any state, county or local statute to the contrary, including but not limited to the Local Finance law, Real Property Tax Law, Tax Law and General Municipal Law of the State of New York.

Chapter 188

ZONING

ARTICLE I **General Provisions**

- § 188-1. Title.**
- § 188-2. Purpose.**
- § 188-3. Jurisdiction.**
- § 188-4. Nonconformity.**
- § 188-5. Application and building permit approval.**
- § 188-6. Certificate of occupancy.**
- § 188-7. Exceptions.**
- § 188-8. Conflict with pending amendments.**

ARTICLE II **Nonconforming Uses**

- § 188-9. Legislative intent.**
- § 188-10. Definition.**
- § 188-11. Effect of previously approved certificates of occupancy.**
- § 188-12. Casualty; restoration of nonconforming uses.**
- § 188-13. Requirements for nonconforming uses.**
- § 188-14. Improvement to nonconformities.**
- § 188-15. Effect of change of title on possession.**
- § 188-16. Repair.**
- § 188-17. Certificate of nonconformity.**

ARTICLE III **Terminology**

- § 188-18. Definitions and word usage.**

ARTICLE IV **District Regulations**

- § 188-19. Districts designated.**
- § 188-20. Zoning Map.**
- § 188-21. Interpretation of map.**
- § 188-22. Permitted uses.**
- § 188-23. Prohibited uses in all districts.**
- § 188-24. Parking and loading.**
- § 188-25. Performance standards.**
- § 188-26. Noise.**
- § 188-27. Interpretation of Schedule A.**
- § 188-28. Site plan approval for additional uses.**
- § 188-29. Standards by district.**

ARTICLE V **Design Standards**

- § 188-30. Site plan approval; additional standards.**
- § 188-31. Preapplication review.**
- § 188-32. Submission requirements.**
- § 188-33. Application review.**
- § 188-34. Action on application.**
- § 188-35. General standards.**
- § 188-36. Special standards for multiple dwellings.**
- § 188-37. Parking and loading general requirements.**
- § 188-38. Design and construction.**
- § 188-39. Parking space standards.**
- § 188-40. Loading space standards.**
- § 188-41. Classification of uses.**
- § 188-42. Joint use.**
- § 188-43. Modification of standards.**

- § 188-44. Sign requirements; purpose.
- § 188-45. Sign standards.
- § 188-46. Signs in residential districts.
- § 188-47. Signs in VB and C Districts.
- § 188-48. Determining sign measurements.
- § 188-49. Relationship to site development plans.
- § 188-50. Special events.
- § 188-51. Directional signs.
- § 188-52. Additional standards for signs.

ARTICLE VI

Administration and Enforcement

- § 188-53. Appointment of enforcement officer.
- § 188-54. Application requirements.

- § 188-55. Notification.
 - § 188-56. Approval and issuance of permits and certificates.
 - § 188-57. Fees.
 - § 188-58. Inspections and orders.
 - § 188-59. Complaints.
 - § 188-60. Zoning Board of Appeals established; powers and duties.
 - § 188-61. Procedures.
 - § 188-62. Amendments.
 - § 188-63. Referral to Planning Board.
 - § 188-64. Petitions.
 - § 188-65. Penalties for offenses; remedies.
 - § 188-66. Validity; conflict with other provisions.
- Zoning Map**

[HISTORY: Adopted by the Board of Trustees of the Village of Nelsonville 7-31-1984 as L.L. No. 1-1984. Amendments noted where applicable.]

GENERAL REFERENCES

- | | |
|---|--------------------------------------|
| Planning and Zoning Boards — See Ch. 36. | Streets and sidewalks — See Ch. 165. |
| Building construction and fire prevention — See Ch. 77. | Subdivision of land — See Ch. 168. |
| Flood damage prevention — See Ch. 95. | Vehicles and traffic — See Ch. 178. |
| Freshwater wetlands — See Ch. 99. | Fees — See Ch. A191. |

ARTICLE I

General Provisions

§ 188-1. Title.

This chapter shall be known as and may be cited as the “Zoning Law of the Village of Nelsonville, New York” and is hereinafter referred to as the “Zoning Law.”

§ 188-2. Purpose.

This chapter is enacted in accordance with a Comprehensive Plan for the Village of Nelsonville for the following purposes:

- A. To promote the health, safety, morals and general welfare of the Village of Nelsonville.

- B. To lessen congestion in the streets; to secure safety from fire, panic, floods and other dangers; to provide adequate light and air; to prevent overcrowding of the land; to avoid undue concentration of population; to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight therefor; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- C. To promote the orderly growth, development and preservation of the Village of Nelsonville with due consideration for economic well-being, adequate housing opportunity, the character and appearance of the village, conservation of the value of buildings and property, conservation of historic landmarks, sites, buildings and places and the appropriate use and conservation of land and water resources.

§ 188-3. Jurisdiction.

Within the Village of Nelsonville, land, buildings and other structures may be used and buildings, other structures and site development may be constructed, reconstructed, enlarged, extended, moved or altered only in conformity with this chapter. Any lot or land may be subdivided, sold, encumbered or transferred only in conformity with this chapter and only when such subdivision, sale, encumbrance or transfer does not make any use, building, other structure or site development thereon nonconforming or more nonconforming to this chapter.

§ 188-4. Nonconformity.

Any use, building or other structure which existed lawfully, whether by variance or otherwise, on the effective date of this chapter or any amendment hereto and fails to conform to one (1) or more of the provisions of this chapter or such amendment may be continued subject to the provisions and limitations of Article II.

§ 188-5. Application and building permit approval.

Buildings and other structures and site development that is subject to this chapter may be constructed, reconstructed, enlarged, extended, moved or altered only after an application for a certificate of occupancy therefor has been approved and any required building permit therefor has been issued by the Zoning Enforcement Officer. When a use of land is subject to the provisions of this chapter, such use of land may be established and site development in connection with such use may be commenced only when an application for a certificate of occupancy therefor has been approved by the Zoning Enforcement Officer. All applications shall be submitted and building permits issued in accordance with the provisions of §§ 188-53 through 188-56.

§ 188-6. Certificate of occupancy.

Land, buildings and other structures, and site development that is subject to this chapter, may be used or occupied, or changed in use, only after a certificate of occupancy therefor has been issued by the Zoning Enforcement Officer certifying compliance with this chapter. All

certificates of occupancy shall be issued in accordance with the provisions of §§ 188-53 through 188-56.

§ 188-7. Exceptions.¹

No building permit and no certificate of occupancy is required under this chapter for any of the following:

A. Certain signs, as specified in §§ 188-44 through 188-51.

§ 188-8. Conflict with pending amendments.

Upon issuance of an order by resolution of the Village Board, no building permit shall be issued and no application for a certificate of occupancy shall be approved by the Zoning Enforcement Officer authorizing any proposed use of land, building or other structure or any proposed construction, reconstruction, enlargement, extension, moving or alteration of a building, other structure or site development which does not conform to a proposed amendment of this chapter if first notice of a public hearing to consider such amendment has been published in a newspaper as required by law. If, however, such hearing is not held or the proposed amendment has not been adopted by the Village Board and made effective within ninety (90) days after the date of such first notice, issuance of the building permit and/or approval of the application for a certificate of occupancy by the Zoning Enforcement Officer shall not be withheld by reason of conflict with the proposed amendment.

**ARTICLE II
Nonconforming Uses**

§ 188-9. Legislative intent.

It is the intent of this chapter that nonconformities are not to be expanded when contrary to the Comprehensive Plan of zoning; that the nonconforming uses of land, buildings and other structures should be changed to conformity; and that the existence of any nonconformity shall not of itself be considered grounds for the approval of a variance for any other property.

§ 188-10. Definition.

A nonconforming use, building, other structure, site development or lot is one which existed lawfully, whether by variance or otherwise, on the date this chapter or any amendment hereto became effective and which fails to conform to one (1) or more of the provisions of this chapter or such amendment hereto. No nonconforming use, building, other structure, site development or lot shall be deemed to have existed on the effective date of this chapter unless it was actually in being on a continuous basis on such date; and if such nonconformity is a use, such use had not been discontinued within the meaning of § 188-13D.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 188-11. Effect of previously approved certificates of occupancy.

Unless otherwise specifically provided in this chapter, nothing herein shall require any change in the use of any land, building or other structure or part thereof or in the area, location, bulk or construction of any building or other structure or site development for which any required certificate of occupancy shall have been lawfully issued even though such use, building, structure or site development does not conform to one (1) or more provisions of this chapter or any amendment hereto.

§ 188-12. Casualty; restoration of nonconforming uses.

If any nonconforming building or structure or structure containing a nonconforming use shall be damaged or destroyed by fire or other casualty, such building or structure, except nonconforming signs, may be restored and any such nonconforming use resumed to the extent that such building, structure or use existed at the time of the casualty, provided that such restoration is started within a period of one (1) year from such casualty and is diligently prosecuted to completion. In the event of failure to start such restoration within the one-year period and to complete the same within twenty-four (24) months thereafter or within such additional periods, not exceeding six (6) months, as the Village Board may grant upon written application made to it, the right under this section to restoration of such building or other structure and the right to resume any such nonconforming use shall be lost and terminated.

§ 188-13. Requirements for nonconforming uses.

The following provisions and limitations shall apply to a nonconforming use of land, building or other structure:

- A. **Enlargement.** Any nonconforming use of land shall not be enlarged, extended or altered and any building or other structure or part thereof devoted to a nonconforming use shall not be enlarged, extended, reconstructed or altered except where the result of such change is to reduce or eliminate the nonconformity. Any nonconforming use of a building or other structure shall not be extended to occupy land outside such building or other structure or space in another building or other structure. Any new use added to a preexisting nonconforming use of land, buildings or other structures shall be deemed to be an enlargement, extension or alteration of such preexisting nonconforming use. **[Amended 10-16-1989 by L.L. No. 4-1989]**
- B. **Change.** Any nonconforming use of land, buildings or other structures shall not be changed to any use which is substantially different in nature and purpose from the former nonconforming use except to such uses that are permitted uses in the district in which the use is located. Any nonconforming use of land, buildings or other structures if once changed to conform or to more nearly conform to this chapter shall not thereafter be changed so as to be less conforming again. Notwithstanding the foregoing, the Zoning Board of Appeals may authorize a change from one nonconforming use to another if the Board finds that the new use will more nearly conform to this chapter, will have a lesser impact on the neighborhood and will not impair the eventual elimination of the nonconforming use.

- C. Moving. Any nonconforming use of land shall not be moved to another part of a lot or outside the lot, and any nonconforming use of a building or other structure shall not be moved or extended to any part of the building or other structure not manifestly arranged and designed for such use at the time the use became nonconforming. Any building or other structure containing a nonconforming use shall not be moved unless the result of any such move is to terminate the nonconformity.
- D. Discontinuance. Any nonconforming use of land, buildings or other structures which shall have been discontinued with intent to abandon said use shall not thereafter be resumed or replaced by any other nonconforming use. Any nonconforming use of buildings or other structures which shall have been discontinued for a continuous period of two (2) years shall not thereafter be resumed or replaced by any other nonconforming use.
- E. Performance standards. Any use of land, buildings or other structures which do not conform to one (1) or more of the performance standards of § 188-25 shall not be changed to increase such nonconformity but may be changed to decrease or eliminate such nonconformity. Any such nonconformity so reduced or eliminated shall not be resumed.

§ 188-14. Improvement to nonconformities.

The following provisions and limitations shall apply to nonconforming buildings, other structures and site development.

- A. Enlargement. Any nonconforming building, other structure or site development shall not be enlarged, extended, reconstructed or altered unless the enlargement, extension, reconstruction or alteration is conforming.
- B. Change. Any nonconforming building, other structure or site development, if once changed to conform or to more nearly conform to this chapter shall not thereafter be changed so as to be nonconforming or less conforming again.
- C. Moving. Any nonconforming building or other structure shall not be moved unless the result of such moving is to terminate the nonconformity.
- D. Signs. Signs of a size or type not permitted in the district in which they are situated or which are improperly located or illuminated or which are nonconforming in any other way shall be considered nonconforming structures under this Article, and any increase in size, illumination or flashing of such signs shall be deemed to be an enlargement or extension constituting an increase in nonconformity. Any nonconforming sign, if once removed in whole or in part, shall not thereafter be replaced by another nonconforming sign.
- E. Off-street parking and loading. Any lot, use, building or other structure which does not conform to one (1) or more of the parking and loading provisions of §§ 188-37 through 188-43 shall continue to conform to such provisions to the extent that it conforms on the effective date of such section. Any use of land, buildings or other structures which does not conform to one (1) or more of the provisions of §§ 188-37 through 188-43 shall not be changed to a use which would need additional off-street parking or loading spaces to

comply with the provisions of §§ 188-37 through 188-43 unless such spaces are provided as required for the new use under §§ 188-37 through 188-43.²

- F. Site development and landscaping. Site development, including landscaping, which fails to conform to requirements of this chapter under §§ 188-30 through 188-36 shall be deemed a nonconformity. Any use for which such site development and landscaping are required shall not be enlarged, extended, changed or moved and any building or other structure for which such site development and landscaping are required shall not be enlarged, extended, moved or reconstructed unless such nonconformity is eliminated; provided, however, that the Planning Board may authorize continuation or reduction of the nonconformity under § 188-35M. Any use, building or other structure existing on the date of adoption of this chapter shall not be deemed nonconforming solely for the reason that a site development plan therefor has not been approved under this chapter.
- G. An enlargement to a nonconforming structure shall not be deemed to be nonconforming solely by reason of the fact that the lot upon which the structure is located does not meet the minimum area or frontage requirements of this chapter. [Added 10-16-1989 by L.L. No. 4-1989]

§ 188-15. Effect of change of title on possession.

No change of title, possession or right of possession shall be deemed to affect the right to continue a nonconforming use, building, other structure or site development.

§ 188-16. Repair.

Nothing in this Article shall be deemed to prohibit work on any nonconforming building or other structure when required by law to protect the public health or safety, provided that such work does not increase the nonconformity. Nothing in this Article shall be deemed to prohibit work on ordinary repair and maintenance of a nonconforming building or other structure or, except in the case of nonconforming signs, replacement of existing materials with similar materials.

§ 188-17. Certificate of nonconformity.

The owner of any lot containing a nonconforming use, building, other structure or site development is entitled to a certificate of occupancy certifying the validity of such nonconformity and the extent thereof.

² Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE III
Terminology

§ 188-18. Definitions and word usage.

A. Certain words used in this chapter are hereinafter defined and explained. Other words used in this chapter shall have the meanings commonly attributed to them. Where a question arises as to the precise meaning of a word, the Village Board may by resolution determine the meaning of the word, giving due consideration to the expressed intent and purpose of this chapter.

B. As used in this chapter, the following terms shall have the meanings indicated:

ALTERED (BUILDING, STRUCTURE) — A change or rearrangement in the structural or other parts of any building or other structure so as to require obtaining of a building permit under the New York State Uniform Fire Prevention and Building Code, and any change in the exterior building materials, color, roofline or ornamentation of a building or structure permitted under this chapter subject to approval of a site development plan; reconstruction, enlargement, extension and moving of a building or other structure are included within the meaning of “altered.”³

ALTERED (SITE DEVELOPMENT) — A change or rearrangement in existing site development that is subject to approval of a site development plan under this chapter.

BUILDING or OTHER STRUCTURE — Any constructed or erected structure which is located on the ground or attached to one (1) or more supports located on the ground. Any group of two (2) or more structures connected by a roof shall be considered to be one (1) building for the purposes of this chapter.

CHANGE IN USE — Any change in the use or occupancy of land, buildings and other structures as follows:

- (1) A change in a use listed on one line of Schedule A⁴ to a use listed on another line, when the off-street parking or loading standards applicable to the new use differs from the preceding use.
- (2) A change to a use for which approval of a site development plan is required under this chapter when such plan was not required for the preceding use.
- (3) A change in existing site development that is subject to approval of a site development plan.
- (4) A change in use or site development that would modify conditions imposed or stipulations made by an applicant in connection with the approval of a site development plan.

DWELLING — Any building or part thereof containing one (1) or more dwelling units.

³ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁴ Editor's Note: Schedule A is located following § 188-22.

DWELLING UNIT — A building or part of a building designed for occupancy and so occupied by one (1) family.

FAMILY — One (1) or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.⁵

GASOLINE FILLING STATION — Any premises, including structures and equipment thereon, that is used for the sale of gasoline or any other motor vehicle fuel and the dispensing thereof to motor vehicles on the premises.

INDOOR RESTAURANT — An establishment where customers are served only when seated at tables or counters and at least seventy-five percent (75%) of the customer seats are located within an enclosed building. Such an “indoor restaurant” may include incidental food takeout service for consumption off the premises.

LOT — A parcel of land which is either owned separately from any contiguous parcel as evidenced by conveyance recorded in the office of the Putnam County Clerk or is a building lot shown on a subdivision plat map and filed in the office of the Putnam County Clerk.

MOBILE HOME — See “trailer.”⁶

OUTDOOR STORAGE — Any place of deposit or storage, not in an enclosed building or not under a structure having a roof, of merchandise, supplies, wastes, machinery or equipment and including the manufacture, processing or assembling of goods not in an enclosed building or not under a structure having a roof; provided, however, that the following are excluded from the definition of “outdoor storage”

- (1) The parking of registered motor vehicles and trailers in daily use.
- (2) The deposit and storage in connection with authorized construction of buildings, structures and site development.

PLANNING BOARD — The Planning Board of the Village of Nelsonville, duly appointed by the Village Board under § 7-718 of the Village Law.

PUBLIC GARAGE — Any garage, other than a private accessory garage, available to the public, operated for gain and used for storage, major repair, body work, painting, rental, washing or equipping of automobiles or other motor vehicles. **[Added 7-13-1992 by L.L. No. 2-1992]**

SIGN — Every sign, billboard, illustration, insignia, lettering, picture, display, banner, pennant, flag or other device, however made, displayed, painted, illuminated, supported or attached, intended for use for the purpose of advertisement, identification, publicity or notice, when visible from any street or from any lot other than the lot on which the sign is located and either located out-of-doors or located indoors within twelve (12) inches of a window and intended to be viewed from outside the building. The term “sign,” however, shall not include any flag, pennant or insignia of any governmental unit or nonprofit

⁵ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

⁶ Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

organization nor any traffic or similar regulatory devices or legal notices of any governmental unit.

SITE DEVELOPMENT — Land grading and improvements constructed, installed or planted, including but not limited to driveways, parking, loading and other paved areas, drainage, sewage disposal and water supply facilities, landscaping, outside lighting and areas for outdoor storage.

STEEPLY SLOPED LAND — Ground areas with slope of or greater than twenty-five percent (25%) over a horizontal distance of ten (10) feet or more and with a minimum area of one hundred (100) square feet. [Amended 7-13-1992 by L.L. No. 2-1992]

STREET — A state highway, county road or village street or other street or highway that provides access so as to enable issuance of a building permit under § 7-736, Subdivision 2, of the Village Law.

STREET LINE — The right-of-way, easement or taking line of the following:

- (1) A state highway or county road.
- (2) A street maintained by the Village of Nelsonville.
- (3) A street shown on a subdivision plat on file in the office of the Putnam County Clerk.
- (4) A private street, right-of-way or easement of access having a width of twenty-five (25) feet or more and providing sole access to two (2) or more lots.⁷

TRAILER (and MOBILE HOME) — Any vehicle, conveyance or enclosure which:

- (1) Is used or is designed and intended to be used for human habitation as sleeping or living quarters.
- (2) Is comprised of frame and wheels and is designed and built to be propelled or towed on its own chassis.
- (3) When used for sleeping or living quarters, may or may not be affixed to a permanent continuous foundation.

VILLAGE BOARD — The Board of Trustees of the Village of Nelsonville.

ARTICLE IV District Regulations

§ 188-19. Districts designated.

For the purpose of this chapter, the Village of Nelsonville is hereby divided into the following districts.

⁷ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

| District | Map Code |
|----------------------------------|-----------------|
| Village Residential VR | VR |
| Village Secondary Residential SR | SR |
| Hillside Residential HR | HR |
| Mountain Residential MR | MR |
| Multifamily Residential MF | MF |
| Village Business VB | VB |
| Commercial C | C |

§ 188-20. Zoning Map. [Amended 7-13-1992 by L.L. No. 2-1992]

The boundaries of the districts specified in § 188-19 are hereby established on a map titled the "Zoning Map of the Village of Nelsonville," as adopted by the Village Board of Trustees, including any special maps and boundary descriptions supplementary thereto and any amendments thereof, which map is hereby declared to be a part of this chapter and is hereinafter referred to as the "Zoning Map."⁸

§ 188-21. Interpretation of map.

Where a question arises as to the exact boundary of a district, the Village Board of Trustees shall by resolution determine the location of the boundary, giving due consideration, among other factors, to the indicated location of the boundary on the Zoning Map, the scale of the Zoning Map and the expressed intent and purposes of this chapter.

§ 188-22. Permitted uses. [Amended 10-16-1989 by L.L. No. 4-1989; 7-13-1992 by L.L. No. 2-1992]

Schedule A, Permitted Uses by District, is hereby declared to be a part of this chapter. Land, buildings and other structures in a district may be used for one (1) or more of the uses, and no other, specified on Schedule A as permitted in the district. Uses listed on Schedule A are permitted or prohibited in accordance with the following designation and procedure.

**Schedule A
Permitted Uses by District**

KEY:

P: A use permitted in the district as a matter of right.

S: A use permitted in the district, subject to submission and approval of a site development plan by the Nelsonville Planning Board in accordance with the provisions of §§ 188-30 through 188-36.

X: A use not permitted in the district.

⁸ **Editor's Note: The Zoning Map is located at the end of this chapter.**

| Use | District | | | | | | |
|--|----------|----|----|----|----|----|---|
| | VR | SR | HR | MR | MF | VB | C |
| Part A: Residential Uses | | | | | | | |
| A-1 A dwelling containing one (1) or two (2) dwelling units and not more than one (1) such dwelling per lot. | P | P | P | P | P | P | X |
| A-2 A dwelling for a watchman, caretaker or the proprietor of a use permitted in Parts B or C of this schedule. | P | P | P | P | P | P | P |
| A-3 A dwelling containing three (3) dwelling units and not more than one (1) such dwelling per lot. | S | X | X | X | S | S | X |
| A-4 Dwellings containing up to six (6) dwelling units. | X | X | X | X | S | X | X |
| A-5 Accessory uses customary with and incidental to any aforesaid permitted use, including the following, subject to the additional standards of § 188-52 and subject to approval of a site development plan if required for such permitted use: | P | P | P | P | P | P | P |
| A-5.1 A business or professional office in a dwelling unit (see § 188-52C). | | | | | | | |
| A-5.2 A customary home occupation in a dwelling unit (see § 188-52C). | | | | | | | |
| A-5.3 Letting of rooms in a dwelling unit (see § 188-52D). | | | | | | | |
| A-5.4 Recreation facilities, meeting rooms and other common facilities in connection with dwellings specified in Line A-4. | | | | | | | |
| A-5.5 Signs as provided in §§ 188-44 through 188-51. | | | | | | | |
| A-5.6 No accessory structure in a residential district shall exceed one and one-half (1½) stories in height [twenty (20) feet] or exceed five hundred (500) square feet in floor area. | | | | | | | |
| Part B: Community Facilities and Services | | | | | | | |
| B-1 Buildings, uses and facilities of the Village of Nelsonville, other units of municipal | P | P | P | P | P | P | P |

| Use | District | | | | | | |
|--|----------|----|----|----|----|----|---|
| | VR | SR | HR | MR | MF | VB | C |
| government, the County of Putnam and State of New York, which buildings, uses and facilities shall not include corporate or proprietary uses unless otherwise permitted in this schedule. | | | | | | | |
| B-2 The following uses when conducted by a nonprofit corporation or association and not as a business or for profit: | | | | | | | |
| B-2.1 Churches, places of worship, parish halls and associated activities; private schools; private educational, charitable and philanthropic institutions; fraternal membership clubs and lodges. | S | S | S | S | S | S | X |
| B-2.2 Private nature preserves and wildlife sanctuaries; private outdoor recreation facilities. | S | S | S | S | S | S | X |
| B-2.3 Fire-protection services; emergency vehicle services. | S | S | X | X | S | S | S |
| B-3 Child day-care centers, licensed by the State of New York. | S | S | X | X | S | S | X |
| B-3.1 Family day-care homes, licensed by the State of New York. | S | S | S | S | S | S | X |
| B-4 Cemeteries and structures appurtenant thereto. | X | X | P | P | X | X | X |
| B-5 Private nursing homes, convalescent homes and similar health-care facilities, licensed by the State of New York. | S | S | S | S | S | X | X |
| B-6 Public utility company electric, telephone and gas substations, switching stations and equipment buildings, excluding maintenance and service facilities. | S | S | S | S | S | S | S |
| B-7 Underground public utility company electric, gas and water transmission lines. | P | P | P | P | P | P | P |

| Use | District | | | | | | |
|--|----------|----|----|----|----|----|---|
| | VR | SR | HR | MR | MF | VB | C |
| B-8 Community water supply wells, reservoirs, storage facilities, pump stations and treatment and maintenance facilities. | S | S | S | S | S | S | S |
| B-9 Accessory uses customary with and incidental to any aforesaid permitted use, including signs as provided in §§ 188-44 through 188-51, subject to approval of a site development plan if required for such permitted use. | P | P | P | P | P | P | P |
| Part C: Commercial and Related Uses | | | | | | | |
| C-1 Stores and shops where goods are sold or service is rendered to the public primarily at retail. | X | X | X | X | X | S | S |
| C-2 Business, professional and administrative offices; banks. | X | X | X | X | X | S | S |
| C-3 Indoor restaurants and other indoor food and beverage service establishments, excluding live entertainment. | X | X | X | X | X | S | S |
| C-4 Gasoline filling stations; motor vehicle repair shops, excluding public garages. | X | X | X | X | X | X | S |
| C-5 Research and facilities for development of products, management systems and services. | X | X | X | X | X | X | S |
| C-6 Printing establishments and binderies. | X | X | X | X | X | X | S |
| C-7 Manufacture, processing or assembling of goods. | X | X | X | X | X | X | S |
| C-7.1 Manufacture, processing or assembling of goods when accessory and subordinate to a retail store on the same lot permitted on Line C-1. | X | X | X | X | X | S | S |
| C-8 Warehousing and distribution businesses; lumber and building materials businesses; commercial storage, sale and distribution of heating fuel. | X | X | X | X | X | X | S |
| C-9 Funeral homes. | X | X | X | X | S | X | S |

| Use | District | | | | | | |
|--|----------|----|----|----|----|----|---|
| | VR | SR | HR | MR | MF | VB | C |
| C-10 Trades shops, including painting, plumbing, electrical, carpentry, woodworking, blacksmith, welding and machine shops. | X | X | X | X | X | X | S |
| C-11 Forest management operations, provided that harvesting of trees is conducted under a permit and the requirements of the New York State Department of Environmental Conservation and in accordance with applicable laws of the Village of Nelsonville. | X | X | S | S | X | X | X |
| C-11.1 Cultivated tree farms and harvesting therefrom. | X | X | S | S | X | X | X |
| C-12 Accessory uses customary with and incidental to any aforesaid permitted use, including signs as provided in §§ 188-44 through 188-51, subject to the approval of a site development plan if required for such permitted use. | P | P | P | P | P | P | P |

§ 188-23. Prohibited uses in all districts.

Any use not included on Schedule A as a permitted use in a district is prohibited in such district. To assist in the interpretation of Schedule A, the following uses, the listing of which is not intended to be exhaustive, are specifically prohibited.

- A. The manufacture or storage of explosives or fireworks; structural steel fabrication or ironworks; rendering plants for animal products; dump for solid or liquid waste; sewage waste storage, transfer, processing or treatment (other than Board of Health approved subsurface septic disposal systems); and motor vehicle and other junkyards. **[Amended 10-16-1989 by L.L. No. 4-1989]**
- B. Trailer park or mobile home site, whether transient or permanent.
- C. Carousels, skyrides, Ferris wheels, roller coasters, shooting galleries and similar commercial recreation devices; and any establishment, including an arcade, store or shop, where more than two (2) coin-operated mechanical games machines or devices are available for use by the public, and such two (2) machines or devices that are not prohibited shall be located entirely within an enclosed building.
- D. Vending machines unless located entirely within a building; open-front stores designed primarily for the sale of merchandise directly to the public on a public street or sidewalk; and outside storage of lumber and building materials, coal and automotive fuels, parts and accessories.

- E. The excavation, grading, deposit or removal of earth, loam, topsoil, sand, gravel, clay or quarry stone on any lot in an amount exceeding twenty-five (25) cubic yards in any calendar year, except as an adjunct to a bona fide building construction project, or the installation of a site development plan or subdivision plat improvements, for which a permit or other approval has been granted by the Village of Nelsonville.
- F. A kennel, consisting of a pack or collection of more than three (3) dogs, age six (6) months or older, kept in a building, shelter or enclosure located outside the walls of a dwelling.
- G. Adult bookstores, motion-picture theaters, arcades, cabarets, massage parlors, model studios or other premises that are distinguished or characterized by an emphasis on depicting, describing or actual conduct of sex acts or the anatomical areas related thereto.
- H. The storage of more than one hundred (100) gallons of compressed, flammable gas on a lot. [Added 10-16-1989 by L.L. No. 4-1989]
- I. Visibility at intersections. No structure, permanent or temporary, fence, wall hedge, shrubbery, debris, snow or other obstruction to motorists' vision in excess of three (3) feet in height as measured above adjacent street grade shall be placed or allowed to grow within or encroach upon the boundary of any street or highway in the Village of Nelsonville. [Added 10-16-1989 by L.L. No. 4-1989]
- J. Public garages. [Added 7-13-1992 by L.L. No. 2-1992]

§ 188-24. Parking and loading.

For each use of land, buildings and other structures listed on Schedule A,⁹ parking and loading spaces shall be provided off the street as specified in §§ 188-37 through 188-43.

§ 188-25. Performance standards.

- A. Each use of land, buildings and other structures, wherever located, shall be established and conducted in such a manner that none of the following is produced and transmitted outside the lot where it originates in any degree that is unusual, that is detrimental to the use, enjoyment and value of other land, buildings and structures or that is detrimental to the public health, safety or welfare:
 - (1) Smoke, gas, noxious or toxic fumes, fly ash, dirt, dust and odors.
 - (2) Noise, except time and alarm signals, and noise necessarily involved in the lawful construction or demolition of buildings, other structures and site development.
 - (3) Vibration.
 - (4) Heat.
 - (5) Discomfort glare and disability veiling glare from lighting.

⁹ Editor's Note: Schedule A is located following § 188-22.

- (6) Interference with radio and television reception, except in conformance with regulations of the Federal Communications Commission.
- (7) Pollution or degradation of surface and ground waters.
- B. No hazardous or toxic substances and materials which are dangerous due to radioactivity, explosion or extreme fire hazard shall be used or stored on any lot except in amounts and in a manner allowed by federal, state and local regulations.

§ 188-26. Noise. [Added 10-16-1989 by L.L. No. 4-1989]

- A. Without limitation to the provisions in § 188-25, it shall be unlawful for the owner, occupant and/or any person causing or permitting sound or noise to project within the boundary of a use district which exceeds the limiting noise level set forth in Table No. 1 below. Whenever an applicable federal, state or county statute sets a different limit than specified in this chapter, the lower limitation shall apply.

Table No. 1
[Amended 7-13-1992 by L.L. No. 2-1992]

| District | Maximum Noise Level (dBA) |
|-----------------------------------|---------------------------------|
| All districts except Commercial C | 60 |
| Commercial C | 65 |

- B. The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute made at or beyond the property line of the property on which such noise is generated and shall be taken at least four (4) feet from ground level.

§ 188-27. Interpretation of Schedule A.¹⁰

Where a question arises as to whether or not a proposed use or a change in use is permitted or prohibited on Schedule A in a district, the Village Board may by resolution make a determination, giving due consideration, among other factors, to the purpose of the district and the expressed intent and purpose of this chapter.

§ 188-28. Site plan approval for additional uses. [Added 7-13-1992 by L.L. No. 2-1992¹¹]

Site plan approval pursuant to §§ 188-30 through 188-36 herein is required for more than one (1) use on a lot, except the accessory uses set forth in § 188-22, Schedule A, Line A-5.

¹⁰ Editor's Note: Schedule A is located following § 188-22.

¹¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 188-29. Standards by district.

- A. Area, location and bulk. Schedule B, Standards by District, is hereby declared to be a part of this chapter. The area, location and bulk standards applicable in each district are as hereinafter specified and as listed on Schedule B.¹²
- B. Lot area, frontage and shape. Each lot shall have the minimum area as specified on Schedule B. Each lot shall have frontage on a street as specified on Schedule B. Where applicable, each lot shall be of such shape that a square with the minimum dimension specified on Schedule B will fit on the lot. The following additional requirements and exceptions are applicable to lots:
- (1) Environmentally constrained land. Area consisting of ponds, lakes and other water bodies, freshwater wetlands, lands located within the one-hundred-year floodplain and areas of steeply sloped land may be counted for compliance with the minimum lot area standard specified on Schedule B only for such portion of the requirement that exceeds forty thousand (40,000) square feet. A required minimum square on the lot specified on Schedule B shall not include any such water body or wetlands or steeply sloped land. [Amended 7-13-1992 by L.L. No. 2-1992]
 - (2) Land in two (2) districts. Land in two (2) or more districts may be counted to satisfy a minimum lot area requirement, provided that the requirement of the district having the largest lot area standard is met, but no land in a residence district may be counted to satisfy a lot area requirement in a commercial district.
 - (3) Easements. Land subject to easements for drainage facilities, underground public utilities and aboveground electric, telephone and cable television distribution lines may be counted for compliance with minimum lot area standards specified on Schedule B, but no part of a street or highway, easement of vehicular access, private right-of-way for vehicles or easement for aboveground public utility transmission lines may be counted.
 - (4) Open space reservations. When authorized, land that is restricted to open space usage, including conservation and outdoor recreation, need not be in compliance with the area, frontage and shape requirements of this subsection, provided that such land is shown on a plat map approved by the Planning Board or is owned by the Village of Nelsonville, Town of Philipstown, county or state or by a nonprofit corporation.
 - (5) Interior lots. In HR and MR Districts, the required lot frontage on a street may be reduced to twenty (20) feet if the lot contains an area of two hundred thousand (200,000) square feet or more and is of such shape that a square with three hundred (300) feet on each side will fit on the lot. [Amended 7-13-1992 by L.L. No. 2-1992]
- C. Height. Buildings and other structures shall not exceed the number of stories and maximum height specified on Schedule B.¹³ The following requirements and exceptions are applicable to height standards.

¹² Editor's Note: Schedule B is located following § 188-29.

¹³ Editor's Note: Schedule B is located following § 188-29.

- (1) Count of stories. A "story" is that portion of a building between the surface of any floor and the surface of the floor, ceiling or roof next above. Stories are counted one over the other. Attics not used for human occupancy are not a story. When the ceiling of a basement is five (5) feet or more above the average ground level within ten (10) feet of the building, the basement is considered a story. A story counted as only one-half ($\frac{1}{2}$) story consists of any floor area having a ceiling height of seven (7) feet or more and which does not exceed one-half ($\frac{1}{2}$) of the floor area of the story next below.
- (2) Measurement of height. Height of a building or other structure is measured from the average ground level within ten (10) feet of the building or structure to:
 - (a) The highest point of the roof;
 - (b) The highest point of a parapet wall extending above a roof; or
 - (c) The highest feature of a structure, whichever is higher.
- (3) Height exceptions. The height limitations of this subsection are not applicable to the following when not used for human occupancy: chimneys; flag poles; ornamental spires, cupolas, monuments, cornices and towers; siren towers; poles, masts and towers for public utility lines and services; radio and television antennas; water tanks; elevator, heating, ventilating, air-conditioning and similar equipment occupying not more than twenty percent (20%) of the area of a roof; and windmills for power generation.

D. Setbacks.

- (1) Buildings and other structures shall be set back at least the minimum distances specified on Schedule B¹⁴ as follows:
 - (a) From the street line of a state highway.
 - (b) From the street line of any other street.
 - (c) In VR Districts, from one (1) side property line and from any other property line. **[Amended 7-13-1992 by L.L. No. 2-1992]**
 - (d) In other districts, from any property line.
 - (e) From a residence district boundary line.
- (2) The following additional requirements and exceptions are applicable to setback standards:
 - (a) Accessory buildings. In VR and VB Districts, accessory buildings may extend to within eight (8) feet of any property line, other than a street line, or one-half ($\frac{1}{2}$) the height of the building, whichever is the greater setback. **[Amended 7-13-1992 by L.L. No. 2-1992]**
 - (b) Projections. The following features may project into the area required for setback from a street right-of-way line or property line.

¹⁴ Editor's Note: Schedule B is located following § 188-29.

- [1] Cornices, canopies, eaves and similar architectural features: by thirty (30) inches.
 - [2] Open fire escapes: by five (5) feet.
 - [3] In VR and VB Districts, terraces and unenclosed porches with a floor level no higher than that of the entrance to the building: by six (6) feet, and such projecting terrace or porch may have a protective railing with a maximum height of three (3) feet. **[Amended 7-13-1992 by L.L. No. 2-1992]**
- (c) Signs. Certain permitted signs, as specified in §§ 188-44 through 188-51, may extend within lesser distances of a street right-of-way line or property line.
 - (d) Fences and walls. The required setback distances shall not apply to fences or walls six (6) feet or less in height, but no fence or wall other than a retaining wall shall be located within the right-of-way of any street.
 - (e) VB Districts. Adjoining property owners in VB Districts may by mutual agreement, recorded in the office of the Putnam County Clerk, agree to eliminate the required setback from a common property line or to reduce the required setback to five (5) feet on each side of such line when access to a street by easement or right-of-way, at least ten (10) feet in width, is provided for fire-protection purposes to the rear of any buildings on the lot. **[Amended 7-13-1992 by L.L. No. 2-1992]**
- E. Coverage. The aggregate ground coverage of all buildings and other structures on any lot shall not exceed the percent of the area of the lot specified on Schedule B.¹⁵ The following additional requirements and exceptions are applicable to coverage standards:
- (1) Measurement. The aggregate ground coverage by buildings and structures is measured from the outermost edge of the building or structure, projected straight down but excluding any projections of type [§ 188-29D(2)(b)] that are eligible to extend into setback areas.
- F. Minimum floor area for dwelling and dwelling unit. Each dwelling and each dwelling unit shall have a minimum floor area as specified on Schedule B. The following additional requirements and exceptions are applicable to the computation of minimum floor area of a dwelling and a dwelling unit:
- (1) Eligible area. Only finished livable floor area, measured from the inside surface of exterior walls and having a ceiling height of at least seven and one-half (7½) feet, is counted. Any such floor area, other than a ground floor, must have access thereto by a permanent inside stairway to be included.
 - (2) Exclusions. Eligible floor area does not include the following:
 - (a) Garages, carports or any other enclosed space in a building where motor vehicles may be parked or stored.
 - (b) Terraces and porches, whether covered or enclosed or not.

¹⁵ Editor's Note: Schedule B is located following § 188-29.

- (c) Finished livable floor area in basements having a ceiling height four (4) or fewer feet above the average ground level within ten (10) feet of the building.

Schedule B
Standards by District
 [Amended 10-16-1989 by L.L. No. 4-1989;
 7-13-1992 by L.L. No. 2-1992]

| Standards | District | | | | | | |
|---|----------|--------|--------|--------|--------|-------|--------|
| | VR | SR | HR | MR | MF | VB | C |
| Minimum lot area (square feet) | 9,000 | 20,000 | 60,000 | 80,000 | 40,000 | 9,000 | 30,000 |
| Minimum lot frontage on a street (feet) | 75 | 95 | 135 | 175 | 135 | 75 | 100 |
| Minimum dimension of square on lot (feet) | 75 | 95 | 150 | 200 | 150 | 75 | 100 |
| Maximum number of stories in building | 2½ | 2½ | 2½ | 2½ | 2½ | 2½ | 2½ |
| Maximum height of a building or structure | 35 | 35 | 35 | 35 | 35 | 35 | 35 |
| Minimum setback of a building or structure (in feet) from: | | | | | | | |
| (a) Street line of a state highway | 20 | 30 | 60 | 60 | 70 | 20 | 40 |
| (b) Street line of any other street | 20 | 20 | 60 | 60 | 70 | 20 | 20 |
| (c) In VR Districts: | | | | | | | |
| On one (1) side property line | 8 | NA | NA | NA | NA | NA | NA |
| Any other property line | 12 | NA | NA | NA | NA | NA | NA |
| (d) In other districts, any property line | NA | 12 | 25 | 25 | 70 | 12 | 20 |
| (e) Residence district boundary line | NA | NA | NA | NA | NA | 20 | 40 |
| Maximum ground coverage by buildings and structures as a percent of lot (percent) | 20 | 20 | 15 | 10 | 15 | 25 | 25 |
| Minimum floor area: | | | | | | | |
| (a) Dwelling (square feet) | 720 | 720 | 720 | 720 | 720 | 720 | 720 |

| Standards | VR | SR | HR | District | | VB | C |
|------------------------------------|-----|-----|-----|----------|-----|-----|-----|
| | | | | MR | MF | | |
| (b) Dwelling unit (square feet) | 500 | 500 | 500 | 500 | 500 | 500 | 500 |

NOTES:

See § 188-29 for explanation of standards and for additional requirements and exceptions.

KEY:

NA: Not applicable.

ARTICLE V Design Standards

§ 188-30. Site plan approval; additional standards.¹⁶

Pursuant to § 7-725-a of the Village Law and subject to the procedures, standards and conditions hereinafter specified, the Planning Board is authorized to approve site development plans for particular uses designated on Schedule A¹⁷ of this chapter. The use of land, buildings and other structures for which submission and approval of a site development plan is required under this chapter and the construction, reconstruction, enlargement, extension, moving or alteration of buildings, other structures and site development in connection with such use shall conform to the general standards and any applicable special standards hereinafter specified. The provisions of §§ 188-30 through 188-36 are in addition to other provisions of this chapter applicable in the district where the use is to be located.

§ 188-31. Preapplication review.

Prior to submission of a site development plan, the prospective applicant is invited to consult with the Planning Board concerning the nature and extent of the proposed project, the planning criteria and submission requirements that may be applicable and the procedures for review of site development plans.

§ 188-32. Submission requirements. [Amended 10-16-1989 by L.L. No. 4-1989]

A site development plan submission accompanying an application for a certificate of occupancy shall be presented at the office of the Planning Board at least fourteen (14) days prior to a regular meeting and shall consist of the following.

- A. Statement of use. A written statement, certified by the applicant and by the owner of the lot if different from the applicant, describing the following in sufficient detail to determine compliance with this chapter and to establish the program basis for review of the site plan and architectural plans; twelve (12) copies shall be submitted which shall contain the following information:

- (1) The nature and extent of the proposed use.

¹⁶ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

¹⁷ Editor's Note: Schedule A is located following § 188-22.

- (2) The provision to be made for water supply, sewage disposal, solid waste disposal, drainage and other utilities.
- (3) The number of persons to occupy or visit the premises on a daily basis, including the parking and loading requirements for the use.
- (4) A disclosure of any hazardous or toxic materials to be used or stored on the premises, including provision to be made for management of such materials in accordance with applicable local, state and federal regulations.

B. Site plan.

- (1) A site plan, drawn to a scale of not less than fifty (50) feet to the inch, showing all of the following information, both existing and proposed, as applicable to the particular application.
 - (a) All of the information required for a plot plan under § 188-54A.
 - (b) If less than the entire lot is to be developed, a line delimiting the land to be used under the application.
 - (c) Contours (existing and grading) at an interval not exceeding two (2) feet, or equivalent ground elevations, and the location, depth and results of soils samples, test borings, test pits and seepage tests.
 - (d) Buildings and structures.
 - (e) Streets, driveways, curbs, traffic controls, parking spaces, loading spaces, sidewalks, fences, walls and barriers.
 - (f) Recreation facilities and facilities for water supply, sewage disposal, solid waste disposal, drainage and other utilities; provisions for control of erosion and sedimentation and facilities for fire protection.
 - (g) Outdoor storage areas; outdoor illumination facilities and signs and specifications therefor.
 - (h) Wooded areas and existing isolated trees having a caliper of twelve (12) inches or more when located in areas of the lot to be developed.
 - (i) Landscaping, including trees, shrubs, lawn, seeded areas, mulch, washed gravel and ornamental brick or stone surface, and natural terrain not to be disturbed.
 - (j) With reference to flooding having a one-percent chance of occurring in any given year in the vicinity of Foundry Brook, the floodplain, floodway, base flood elevations and lowest floor elevations, including basements, above mean sea level for any existing or proposed building.
 - (k) Specifications and details for proposed site improvements, including landscaping.
- (1) A schedule indicating the area of the lot, the floor area of buildings and structures, the ground coverage by buildings and structures, the total ground coverage by buildings, other structures, paving and outdoor storage areas and the

computations of required off-street parking and loading spaces and eligible dwelling units.

- (2) The site plan, which may be on more than one (1) sheet, shall be prepared by and bear the seal of a land surveyor, professional engineer, landscape architect or architect, as required by law, and licensed to practice in the State of New York; six (6) copies shall be submitted.
- C. Architectural plans. Architectural plans of all proposed buildings, structures, signs and outdoor illumination facilities, as applicable to the particular applications, which plans may be preliminary in form but shall include exterior elevation drawings, generalized floor plans and perspective drawings in sufficient detail to indicate the exterior building materials, color, height, bulk, roofline, ornamentation and the interior uses and general character. With the exception of signs and outdoor illumination facilities, such plans shall be prepared by and bear the seal of an architect or professional engineer licensed to practice in the State of New York; six (6) copies shall be submitted.
- D. Program. A written program setting forth the proposed sequence and time schedule for construction, completion and occupancy of the various elements and for any phases of the project.
- E. Traffic study. If requested by the Planning Board in connection with uses of larger scale or having potential to generate large volumes of traffic, a traffic impact study, prepared by a recognized traffic engineer, reporting on:
- (1) Daily and peak-hour trips to be generated by the use.
 - (2) Traffic on the streets giving access to and near the use.
 - (3) Adequacy of the existing street to accommodate existing and projected volumes.
 - (4) Appropriate systems and facilities for traffic management.

§ 188-33. Application review.

The Planning Board shall review the application for a certificate of occupancy and the site development plan submission to determine the completeness thereof and compliance with the provisions of this chapter. The Planning Board, upon written request by the applicant, may by resolution determine that the required submission of all or part of the information specified in § 188-32B and C is deferred unless or until requested later by the Planning Board. The Planning Board may call the applicant into consultation and may request the applicant to submit such additional information that it deems necessary in order to review the submission. If the Planning Board determines that the submission is incomplete, the Board may by resolution reject it as ineligible for consideration.

§ 188-34. Action on application. [Amended 10-16-1989 by L.L. No. 4-1989; 7-13-1992 by L.L. No. 2-1992¹⁸]

Within sixty (60) days after receipt of a site development plan submission, the Planning Board shall review the submission and approve, approve with modifications or disapprove such submission. The Planning Board shall approve the site development plan or approve it with modifications when the Board determines that the submission conforms to all of the provisions of this chapter applicable in the district in which the use is located and to the general standards and any applicable special standards hereinafter specified. The following shall also apply to Planning Board review and action:

- A. Time extension. The applicant and the Planning Board may by mutual consent extend the time for review and action.
- B. Approval by other agencies. The filing by the applicant of written approvals by each other agency having approval jurisdiction over aspects of the proposed site development shall be required prior to Planning Board action to approve the site development plan.
- C. Public hearing. The Planning Board may at its discretion hold a public hearing on the submission, which hearing shall be held within sixty-two (62) days after the submission is received and upon publication of notice thereof at least five (5) days prior to the hearing in the official newspaper of the village. If the public hearing is held, the sixty-two-day period for action on the submission shall commence upon completion of the hearing.
- D. Filing. The decision of the Planning Board on the site development plan shall immediately be filed in the office of the Village Clerk and a copy thereof mailed to the applicant and transmitted to the Zoning Enforcement Officer and the Building Inspector.
- E. Conditional permits. A site development plan approved by the Planning Board in accordance with this chapter conditions the approval of an application for a certificate of occupancy and issuance of a building permit to require conformity with the approved plan.
- F. Expiration. An approved site development plan expires one (1) year after the date of approval unless an application for certificate of occupancy has been approved therefor by the Zoning Enforcement Officer and any required building permit has been issued; provided, however, that:
 - (1) The Planning Board's approval may provide for a longer period before expiration, such as for development of the use in stages; or
 - (2) The Planning Board may extend the one-year period for additional periods of one (1) year when it determines that the circumstances of the site and basis for approval under this chapter are substantially unchanged.

§ 188-35. General standards.

The following general standards are applicable to all uses for which a site development plan is required.

¹⁸ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

- A. Village. The use of land, buildings and other structures, the location and bulk of buildings and other structures and site development shall be of a character as to harmonize with the neighborhood, to accomplish a transition in character between areas of unlike character, to protect property values in the neighborhood and to preserve and enhance the appearance and beauty of the Village of Nelsonville and shall conform to the purposes of this chapter as set forth in § 188-2.
- B. Access. Provision shall be made for vehicular access to the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and on the lot and to avoid traffic congestion on any street. Access shall also conform to the following:
- (1) Where reasonable alternate access is available, the vehicular access to the lot for a use permitted only in a VB or C District shall be arranged to avoid traffic use of local residential streets situated in or bordered by residence districts. **[Amended 7-13-1992 by L.L. No. 2-1992]**
 - (2) Where a lot has frontage on two (2) or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
 - (3) The street giving access to the lot shall have traffic-carrying capacity and shall have a suitable travel way and other improvements to accommodate the amount and types of traffic generated by the proposed use.
 - (4) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage road driveways and traffic controls within the street.
 - (5) Access driveways shall be of a design and have sufficient capacity to avoid back up of entering vehicles within any street.
- C. Existing streets. Where the lot has frontage on an existing street, proper provision shall be made for grading and improvement of shoulders and sidewalk areas within the right-of-way of the street and for provision of curbs and sidewalks in accordance with the pattern of development along the street.
- D. **[Amended 7-13-1992 by L.L. No. 2-1992]** Parking and loading. Off-street parking and loading spaces shall be provided in accordance with the provisions of §§ 188-37 through 188-43 and the following:
- (1) In MF, VB and C Districts, no off-street parking or loading spaces or driveway in connection therewith pertaining to a site development plan use shall extend within less than twenty (20) feet of the street line except that access drives with no parking thereon may cross such setback area.
 - (2) In VB and C Districts, no off-street parking or loading spaces or driveway in connection therewith shall extend into the area required for building setback from a residence district boundary line.
- E. Drainage.
- (1) Provision shall be made on the lot for the management of stormwater, including collection and disposal thereof, in the following manner:

- (a) To assure the usability of off-street parking and loading spaces.
 - (b) To avoid hazards to pedestrians and vehicular traffic on the lot and in any street.
 - (c) To avoid stormwater flow across sidewalks and other pedestrianways.
 - (d) To protect watercourses and wetlands from pollution, erosion and sedimentation.
 - (e) To avoid an amount of discharge and time of concentration of flow beyond the capacity of downstream drainage channels.
 - (f) To avoid downstream flooding.
- (2) Provision shall also be made for the protection or improvement of existing watercourses, channels and other drainage systems on the lot or downstream from the lot, as needed to accept the proposed drainage discharge, based on sound design criteria under good engineering practice, taking into account the drainage discharge from existing and potential development of the entire watershed in which the lot is located.
- F. Erosion and sedimentation. Provision shall be made for control of erosion and sedimentation and for avoiding siltation of streams and wetlands, both during construction and upon completion thereof, in accordance with the criteria of the Erosion and Sedimentation Control Handbook of the United States Department of Agriculture, Soil Conservation Service.
- G. **[Amended 7-13-1992 by L.L. No. 2-1992]** Sanitation. Proper provision shall be made for the water supply and sewage disposal requirements of the proposed use in accordance with applicable county and/or state law and in accordance with this section. In addition, provision shall be made for the collection, storage and disposal of solid wastes accumulated in connection with the proposed use and for control of litter by means of receptacles, fences or other means.
- (1) No sewage treatment facility which discharges to any surface waters shall be permitted unless the Village of Cold Spring has refused to authorize the connection to the Cold Spring sewer system as provided in § 188-36C, and the necessary approvals are obtained for the construction thereof as required by law.
 - (2) Any surface discharge sewage treatment plant constructed in the Village of Nelsonville shall provide for at least a tertiary treatment level.
 - (3) Without limitation to the foregoing, any sewage treatment plant discharging to surface waters shall contain tanks and chambers constructed of either cast in place or precast concrete. The equipment selected for the plant shall be from a reputable manufacturer who has demonstrated the reliability of the equipment and which equipment is generally accepted as reliable in the industry. Steel package plants shall not be permitted. The minimum level of treatment for the sewage treatment plant shall be tertiary treatment designed to meet the intermittent stream limits of the New York State Department of Environmental Conservation and which shall utilize a sand filter as the third and final stage of treatment.

- H. Fire protection. Proper provision shall be made for fire protection, taking into account any recommendations of the Chief of the Nelsonville Volunteer Fire Department and including the following:
- (1) Suitable location for and access to fire hydrants and/or fire ponds and other water storage.
 - (2) Suitable access to buildings and storage areas for operation of fire-protection vehicles and equipment.
 - (3) Sufficient controls on traffic and parking to permit access by fire-protection vehicles in emergencies.
 - (4) Adequate circulation driveways within the lot, coordinated with access to other lots, to permit access by fire-protection vehicles.
- I. Lighting. The location, height, design, arrangement and intensity of outside lighting, including the illumination of signs, shall avoid discomfort glare and disability veiling glare on the lot, on any other lot and in any street. Such lighting shall also avoid hazards to traffic and shall harmonize with the neighborhood.
- J. **[Amended 7-13-1992 by L.L. No. 2-1992]** Outdoor storage. In VB and C Districts, outdoor storage shall be located in the areas shown on the site development plan and shall be limited as follows:
- (1) No outdoor storage shall extend within less than the minimum building setback distances specified on Schedule B¹⁹ from a street line or any residence district boundary line.
 - (2) In VB Districts, outdoor storage areas on any lot shall not exceed ten percent (10%) of the aggregate ground coverage of all buildings on the lot. In C Districts, outdoor storage areas shall not exceed twenty percent (20%) of the area of the lot.
 - (3) All outdoor storage areas shall be enclosed, except for necessary access drives, by buildings and/or fences, walls, embankments or evergreen shrubs or trees so as substantially to screen such areas from view from any street or residence district; provided, however, that the Planning Board may determine that such enclosure is not necessary in connection with all or a portion of necessary and reasonable outdoor storage that is an adjunct to retail sales.
- K. Landscaping. It is the intent of this subsection to recognize that the site development plan uses are likely to be located in the portion of the Village of Nelsonville that is thickly settled and where there is a mixture of dwellings and commercial uses in close proximity to one another. The character of the village can be maintained or enhanced, the quality of housing improved and the economic well-being promoted by provision of landscaping features including fences, walls, shrubs, lawns, trees and other features in appropriate locations and design. Landscaping shall be designed in accordance with the following criteria:

¹⁹ Editor's Note: Schedule B is located following § 188-29.

- (1) That all portions of the lot not covered by buildings, paving or storage but are otherwise disturbed by construction are provided with suitable vegetative cover.
- (2) In VB and C Districts, building setback areas from residence districts are provided with fences, trees or shrubs to achieve transition in character of land use. **[Amended 7-13-1992 by L.L. No. 2-1992]**
- (3) In VB and C Districts, the street frontage of the lot is provided with trees and lawns or other features which enhance the appearance of the street. **[Amended 7-13-1992 by L.L. No. 2-1992]**
- (4) Larger off-street parking areas are provided with landscaped planting islands and shade trees.
- (5) All landscaping materials are of a type and/or species suitable for the location of the lot in the village and soil conditions on the lot and planted and maintained in accordance with good landscaping practice.

L. Signs. All signs shall conform to the requirements of §§ 188-44 through 188-51.

M. Nonconformity. As provided in Article II, the Planning Board may approve a site development plan authorizing reconstruction, enlargement, extension, moving or alteration of buildings and structures on a lot having site development which fails to conform to the standards of this section and/or authorizing enlargement, extension, moving or reconstruction of site development which fail so to conform if the Planning Board finds that the following standards are met:

- (1) The proposed construction will result in a general improvement of the lot with regard to safe access, suitable drainage and adequate landscaping.
- (2) Nonconforming signs and lighting will be brought into a conforming or more nearly conforming condition.
- (3) Adequate provision is made for landscaping in the area required for building setback from a residence district boundary line.
- (4) There shall be no increase in the nonconformity of buildings and other structures and site improvements.

§ 188-36. Special standards for multiple dwellings. [Amended 10-16-1989 by L.L. No. 4-1989; 7-13-1992 by L.L. No. 2-1992]

In MF Districts, the following special standards are also applicable to site development plans:

A. Unit occupancy program. The site development plan submission shall include a suitable written program setting forth:

- (1) The proposed schedule of dwellings and dwelling units by bedroom count.
- (2) The basis for the schedule.
- (3) The projected number of occupants, by age group, for each unit size.
- (4) The proposed manner of ownership or tenancy of units.

- (5) The relationship between projected occupants and plans for recreation, water supply and sewage disposal.
- (6) A time schedule for occupancy of units, together with a projection of impact upon municipal services, including public school enrollment.

B. Units and buildings.

- (1) The number of dwelling units shall not exceed one (1) for each nine thousand (9,000) square feet of net lot area. Area consisting of ponds, lakes and other water bodies, freshwater wetlands, lands located within the one-hundred-year floodplain and areas of steeply sloped land shall be identified and deducted from the gross lot area to yield the net lot area. Actual construction shall be designed so as to require no disturbance of land with slopes in excess of twenty-five percent (25%) except as may be approved by the Planning Board, in its discretion, in appendage steeply sloped areas where adverse environmental impact will be minimal.
- (2) Dwellings shall conform to the following:
 - (a) The dwellings on one (1) development site shall contain no more than an average of four (4) dwelling units per building but in no event exceeding six (6) dwelling units per building. No building shall exceed a length of one hundred fifty (150) feet.
 - (b) No dwelling unit shall contain more than two (2) bedrooms, and the schedule of bedrooms per unit shall be subject to the approval of the Planning Board. For the purpose of determining the number of bedrooms in the dwelling unit, any room designed, intended, furnished or occupied for sleeping quarters and any room other than a living room, dining room, kitchen or bathroom or a utility room having no more than fifty (50) square feet of floor area shall be considered a bedroom.
 - (c) The restrictions on the number of bedrooms in a dwelling unit set forth above shall be incorporated into permanent restrictive covenants running with the land and for the benefit of the Village of Nelsonville and unit owners in the development.
 - (d) No dwelling unit shall exceed a height of two (2) habitable floors, exclusive of attics and basements not used for human occupancy, and no building shall extend within less than seventy (70) feet of any other building on the lot and of any property line. The Planning Board in its discretion may allow setbacks between buildings of not less than forty (40) feet where buildings abut end to end or corner to corner.
 - (e) Dwellings and other buildings on the lot shall have exterior architectural design, including finish, color, mass and character, that is compatible with built-up areas of the village. Without limitation to the foregoing, no building shall have the appearance of a row house.

- C. Utilities. All electric, telephone and cable television lines on the lot shall be located underground. An on-site community water supply system, including wells, storage and distribution, shall be provided to serve the dwellings, and such system shall have a fire-

rated capacity. Or, in the alternative, if public water is available, the applicant shall provide for a connection to such public water system. When there are ten (10) or more dwelling units on any lot, all dwelling units and buildings shall be connected to the Village of Cold Spring sanitary sewer system, in accordance with the standards and specifications of such village, provided that the Village of Cold Spring authorizes such connection for the number of dwelling units approved by the Planning Board of the Village of Nelsonville after environmental review in accordance with the zoning and other land use regulations²⁰ of the village as well as all other applicable state and local governmental agencies having jurisdiction over the property.

- D. Access and parking. Access to a multiple-dwelling development shall be provided by a major driveway(s) that provides access to parking courtyards and minor driveways that feature direct access to dwellings and garages. The major driveway shall be improved to a twenty-four-foot-wide travel way. All minor driveways serving parking spaces, dwellings and garages shall be improved to a twenty-four-foot-wide travel way. In addition, the following shall apply:
- (1) All driveways and parking areas shall have a minimum ten-inch base course of Item 4 stone (New York State Department of Transportation standard) and a two-and-one-half-inch binder course and a one-and-one-half-inch finish course (compacted thickness) of bituminous concrete.
 - (2) All parking spaces shall be in garages, lots or bays.
 - (3) Cement concrete curbs shall be provided along the edge of all driveways and parking areas.
 - (4) The Planning Board may, in its discretion, waive or adjust the paving and curbing requirements with respect to minor driveways and parking areas.
 - (5) Proposed structures shall be set back no less than forty-five (45) feet from the center line of major driveways.
- E. Other site development. For other site development, the following shall apply:
- (1) The dwellings shall be provided with an outdoor recreation site or sites and facilities on the lot, suitably graded and improved, meeting the needs of the types of dwelling units to be established.
 - (2) Cement concrete sidewalks at least four (4) feet in width shall be provided along one (1) or both sides of major driveways and in other appropriate locations, such as between dwellings, between parking areas and dwellings and to recreation facilities as determined by the Planning Board.
 - (3) All outdoor illumination of access driveways and parking areas shall be by means of cutoff-type luminaries. Luminaries shall not exceed a height of fifteen (15) feet.
 - (4) Use of retaining walls where grade differentials exceed four (4) feet shall be done with reinforced concrete walls or gabion walls.

²⁰ Editor's Note: See Ch. 168, Subdivision of Land.

- (5) A central television antenna system shall be provided.
- (6) Suitable fire-protection equipment and facilities shall be provided.

§ 188-37. Parking and loading general requirements.

For each use of land, buildings and other structures, parking spaces and loading spaces shall be provided off the street in accordance with the standards hereinafter specified. The number of off-street parking and loading spaces required by this chapter shall be permanently maintained and made available for occupancy in connection with and for the full duration of the use for which such spaces are herein required. If any existing use of land, buildings or other structures is changed to a use for which additional off-street parking or loading spaces are required under this chapter, the additional spaces shall be provided for the new use in accordance with the standards hereinafter specified. All off-street parking and loading spaces hereafter established, whether required by this section or not, shall conform to the standards of § 188-38.

§ 188-38. Design and construction.

All off-street parking and loading spaces shall be designed and constructed in accordance with the following standards.

- A. Specifications for a space. A parking space and a loading space shall consist of the following:
 - (1) Parking space. A space of such shape as to contain a rectangle not less than nine and one-half (9½) feet in width and eighteen (18) feet in length and having vertical clearance, access and slope as to accommodate an automobile having an overall length of eighteen (18) feet; when reserved for physically handicapped persons, such space shall have a width of twelve (12) feet.
 - (2) Loading space. A space of such shape as to contain a rectangle not less than twelve (12) feet in width and thirty (30) feet in length and having a vertical clearance of not less than fifteen (15) feet and such access and slope as to accommodate a truck having an overall length of thirty (30) feet.
- B. Turning. Each parking space shall be provided with adequate area for approach, turning and exit of an automobile having an overall length of eighteen (18) feet without need to use any part of a street right-of-way, except that this provision shall not apply to spaces provided in connection with a dwelling containing one (1) or two (2) dwelling units, rooms to let in a dwelling unit and customary home occupations in a dwelling unit. No loading space, including any truck loading bay, ramp or dock, shall be designed or arranged in a manner that a truck must use any part of a street right-of-way to enter, back into and/or exit from such space.
- C. Improvement. All off-street parking and loading spaces shall be suitably improved, graded, stabilized, marked and maintained so as to cause no nuisance or danger from dust or from stormwater flow onto any street right-of-way. Except for necessary driveway entrances and except for parking spaces provided in connection with a dwelling for one (1) or two (2)

families, all off-street parking and loading spaces located within twenty (20) feet of any street right-of-way line shall be separated from such line by a curb, a fence or wall or an embankment and shall be provided with the curb, fence, wall or embankment in such a manner that cars will not overhang the street right-of-way line. (See also § 188-35D.)

D. Layout.

- (1) All off-street parking areas shall be provided with parking space stalls of suitable angle, width and length and with access aisles of sufficient width and suitable alignment to such stalls as to allow safe and convenient use of each required parking space. Provision shall be made for safe and convenient use of parking spaces and for circulation within parking areas as follows:
 - (a) By provision of suitable circulation driveways giving access to parking aisles and stalls.
 - (b) By provision for safe pedestrian circulation within parking areas.
 - (c) By providing for channelized traffic flow within parking areas.
 - (d) By suitable markings, curbs, end islands, fences or other devices to encourage proper and efficient use of each parking stall.
- (2) All off-street loading spaces shall be provided with a suitable angle of approach and sufficient width and length to accommodate the types of trucks expected to use the space. No loading space shall be arranged in such a manner as, when the space is in use, to block use of required parking spaces or traffic circulation within parking areas. (See also § 188-35D.)

§ 188-39. Parking space standards.

The purpose and intent of this section is to assure that off-street parking spaces are provided to accommodate the automobiles of all persons normally using or visiting a use, building or other structure at any one (1) time.

- A.** Off-street parking spaces shall be provided in accordance with the following minimum standards and shall be located on the same lot with the use.

| Use Classification | Standard |
|--|---------------------------------|
| Dwellings containing 1, 2 or 3 dwelling units [Amended 7-13-1992 by L.L. No. 2-1992] | 2 spaces for each dwelling unit |
| Dwellings containing 4 or more dwelling units [Amended 7-13-1992 by L.L. No. 2-1992] | 3 spaces for each dwelling unit |
| Rooms to let in a dwelling unit | 1 space for each room |

Use Classification**Standard**

Business or professional office
or customary home occupation in
a dwelling unit

1 space for each
nonresident person
engaged in conduct of the
office or occupation

Churches, places of worship,
parish and assembly halls
and funeral homes

1 space for each 5 fixed
seats or 1 space for each 75
square feet of assembly
area without fixed seats

Nursing homes and convalescent
homes

1 space for each 2 beds

Buildings containing stores,
offices or banks available
to the public at retail
and all service businesses
[Amended 10-16-1989
by L.L. No. 4-1989]

1 space for every 200
square feet of floor
area occupied by
such use, but in no event
shall be less than 2
spaces for each such use

Indoor restaurants and other
food and beverage service
establishments

1 space for each 50 square
feet of patron floor area

Gasoline filling stations and
motor vehicle repair
establishments

10 spaces or 5 spaces for
each garage bay, whichever
is greater

Research and development facil-
ities; printing and binding
establishments (in excess of
1,500 square feet); establish-
ments for the manufacture,
processing or assembling of
goods; warehousing and distribution
businesses; and lumber and
building materials businesses

1 space for each 1.5
employees or 1 space for
each 500 square feet of
gross floor area, which-
ever is greater

- B. Other uses. Sufficient parking spaces shall be provided in connection with any use not listed in Subsection A above to preserve the purpose and intent of this section.

§ 188-40. Loading space standards. [Amended 10-16-1989 by L.L. No. 4-1989]

Each building, other than a dwelling or a farm building, having a ground floor area in excess of four thousand (4,000) square feet shall have one (1) off-street loading space for each four thousand (4,000) square feet of gross floor area or fraction thereof, excluding basements used only for utilities or storage.

§ 188-41. Classification of uses.

Whenever two (2) or more use classifications listed in § 188-39 shall be applicable to a use of land, buildings or other structures, the standard requiring the larger number of parking spaces shall apply. Where separate parts of a building or structure are used for different use classifications, the number of required spaces shall be determined by adding the number of spaces required for each type of use.

§ 188-42. Joint use.

Joint parking areas and loading spaces may be established by the owners of separate lots in order to provide the total number of off-street parking and loading spaces required for each lot.

§ 188-43. Modification of standards.

The Planning Board, in connection with its development plan for a lot, may authorize off-street spaces less in number than specified in §§ 188-39 and 188-40 or authorize such spaces to be located on a lot other than the lot where the use is located if the Planning Board determines that the following standards and conditions are met:

- A. The number of spaces provided on the site development plan are sufficient to accommodate the vehicles of all persons using and visiting the particular use or occupancy of land, buildings or other structures specified in the statement of use accompanying the plan.
- B. There is sufficient and suitable area on the lot to provide in the future the full number of spaces specified in §§ 188-39 and 188-40.
- C. That spaces located on another lot are conveniently accessible to persons normally using or visiting the use, that traffic congestion and on-street parking and loading will not result and that such other lot is located in a district where the use is permitted.
- D. The authorization shall be applicable only to the particular use or occupancy of land, buildings or other structures specified in the statement of use, and such authorization and any certificate of occupancy issued for the use shall become null and void in the event that such use or occupancy is changed to another use or occupancy.

§ 188-44. Sign requirements; purpose.

Except as hereinafter provided, signs may be established, constructed, reconstructed, enlarged, extended, moved or altered only after a building permit and/or certificate of occupancy therefor has been issued as for buildings and other structures. All signs shall conform to the provisions hereinafter specified. It is the purpose of this section to:

- A. Provide for sufficient identification of a lot occupied by one (1) or more uses as a convenience primarily for residents of the village.

- B. Provide for a size, illumination and character of signs that is appropriate for and consistent with the purpose of each district.
- C. Avoid a size, illumination, character and proliferation of signs that intrude upon the view of persons in any street or highway or on any lot other than where the sign is located or that cause discomfort glare or disability veiling glare on the lot, on any other lot or in any street.

§ 188-45. Sign standards.

Signs shall conform to the following standards applicable in all districts:

- A. Purpose. All signs, except as hereinafter provided, shall advertise, identify or give publicity or notice only with respect to a use of land, buildings or other structures, including goods sold, services rendered, establishments and occupants, actually in being on the lot where the sign is located. When such use has been discontinued for a continuous period of six (6) months, all signs pertaining thereto shall be removed or otherwise eliminated unless such signs are illustrations, insignia or lettering which are an integral and permanent part of the architecture of a building approved under a site development plan.
- B. Location. No sign shall be located within or hang over the street line of any street; provided, however, that a permitted sign attached to the wall of a building may project not more than fifteen (15) inches from the building and thereby may be within or over such street line.
- C. Projecting and hanging signs. No sign shall project over or hang over any sidewalk, driveway, roadway or accessway; provided, however, that a permitted sign attached to the wall of a building may thus project not more than fifteen (15) inches from the building.
- D. Obstructions. No sign shall be located or maintained so as to be a hazard to traffic or pedestrians, to obstruct any door, window, ventilation system or fire escape or exit or to cause any other hazard to the public health or safety.
- E. Prohibited signs. The following signs are prohibited in all districts.
 - (1) Any flashing, intermittent light-reflecting and revolving, waving and other moving sign.
 - (2) Continuous strip lighting of buildings and other structures by exposed lamps or luminous tubes.
 - (3) Signs with letters taller than twelve (12) inches.
 - (4) Exposed lamp, luminous tube and plastic- or glass-covered internally illuminated signs.

§ 188-46. Signs in residential districts.

In addition to the standards specified in § 188-45, the following are applicable to signs in residential districts:

A. Purpose. Signs in residential districts are limited to the following:

- (1) On premises which are for sale or rent, one (1) sign is permitted which shall not exceed two (2) square feet in area, advertising such sale or rental for the premises only.
- (2) On premises containing a community facility or service use under Part B of Schedule A²¹ or a project of multiple dwellings in MF Districts, one (1) sign on the lot and not exceeding sixteen (16) square feet in area and six (6) feet in any dimension shall be permitted. [Amended 7-13-1992 by L.L. No. 2-1992]
- (3) One (1) sign, not exceeding two (2) square feet in area, identifying the occupant of the premises, including a permitted business or professional office or customary home occupation, is permitted; no building permit is required for such sign.
- (4) Signs on private premises intended primarily as warning and traffic signs with no advertising thereon and not exceeding three (3) square feet in area, located and intended primarily for warning and traffic control purposes, are permitted; no building permit is required for such signs.
- (5) Building contractors' and designers' signs pertaining to buildings under construction on the lot where the signs are located are permitted, provided that the aggregate area of such signs shall not exceed sixteen (16) square feet, and such signs shall be removed within thirty (30) days after completion of the project.

B. Location. Signs in any residence district shall not extend within less than ten (10) feet of any street line or property line except signs permitted under Subsections A(3) and A(4) above. No sign shall be located on any roof, and no sign attached to a building shall project above the top of the wall of the building. Signs attached to buildings may project into the area required for setbacks, provided that the sign does not project more than fifteen (15) inches from the building.

C. Height. Any sign that is not attached to a building shall not exceed a height of four (4) feet.

D. Illumination. Illumination of signs in residence districts shall be limited to signs permitted under Subsection A(2). Such illuminated signs shall be either luminous background silhouette signs with opaque letters or floodlighted signs.

§ 188-47. Signs in VB and C Districts. [Amended 7-13-1992 by L.L. No. 2-1992]

In addition to the standards specified in § 188-45, the following are applicable to signs in VB and C Districts:

A. Setbacks. Signs shall observe all setbacks required for buildings and other structures except as follow:

- (1) Signs shall be as permitted under § 188-46A(3) and (4).

²¹ Editor's Note: Schedule A is located following § 188-22.

- (2) Signs attached to buildings may project into the area required for setbacks, provided that the signs do not project more than fifteen (15) inches from the building.
 - (3) On any lot, one (1) sign attached to the ground may extend to within ten (10) feet of any street line, provided that the sign does not exceed sixteen (16) square feet in area and more than six (6) feet in any dimension.
- B. Number, height and area. Except for signs identified in Subsection A(1) above, the number, height and area of signs shall not exceed the following:
- (1) No more than one (1) sign on any lot, including the sign identified in Subsection A(3), shall be attached to or rest on the ground, and such sign shall not exceed a height of four (4) feet, an area of sixteen (16) square feet and more than six (6) feet in any dimension.
 - (2) Signs attached to buildings shall not extend above the top of the wall of the building.
 - (3) Signs attached to buildings shall not project more than fifteen (15) inches from the wall of the building.
 - (4) Signs attached to one (1) wall of a building, including projecting signs and all signs designed to be viewed from the particular side of the building where the wall is located, may have a total area of as much as five percent (5%) of the area of such wall measured to a height of twelve (12) feet above ground level.

§ 188-48. Determining sign measurements.

Any sign may be double facing, and only one (1) face shall be counted in determining conformity to sign area limitations. All dimensions for signs shall be based on measurements to the outside edge of the sign excluding any structure necessary to support the sign. The area of signs shall be computed from either the outer dimensions of the frame or as the area of a quadrilateral, including the outer edges of all lettering, whichever is greater.

§ 188-49. Relationship to site development plans.

The provision for signs which may be imposed in connection with approval of a site development plan under §§ 188-30 through 188-36 are in addition to the requirements of §§ 188-44 through 188-51.

§ 188-50. Special events.

In accordance with general or special rules and procedures adopted by resolution of the Village Board, the Zoning Enforcement Officer may authorize the establishment of temporary signs which advertise, identify or give publicity or notice of a permitted special event in the village, whether such event has a commercial or a nonprofit community purpose, provided that such event has a duration of not more than fourteen (14) days and such signs are removed within forty-eight (48) hours after the termination of such event.

§ 188-51. Directional signs.

In accordance with general or special rules and procedures adopted by resolution of the Village Board, the Zoning Enforcement Officer may issue a conditional building permit for the establishment of directional signs within the right-of-way of a street, provided that:

- A. Such sign shall pertain to a local establishment;
- B. The permit shall expire three (3) years after issuance but may be renewed for an additional three (3) year period; and
- C. The sign does not exceed eight by thirty-six (8 x 36) inches and is of a standard design and construction approved by the Village Board.

§ 188-52. Additional standards for signs.

- A. The requirements hereinafter specified are supplementary to and in addition to requirements and standards set forth elsewhere in this chapter.
- B. Accessory uses. Permitted accessory uses do not include dwelling units but include signs in accordance with §§ 188-44 through 188-51 and shall be limited to uses which are customary with and clearly incidental to the principal permitted use on the lot. In residence districts, accessory uses shall also conform to the following:
 - (1) The accessory use shall be located on the same lot with the principal permitted use to which it is accessory.
 - (2) Accessory uses may include off-street parking and loading spaces and private garages and driveways giving access thereto, but shall not include driveways to a use permitted only in a VC or GC District. No more than one (1) commercial vehicle (self-propelled or towed) may be parked in a parking space accessory to a dwelling unit, and such vehicle shall not exceed ten thousand (10,000) pounds gross vehicle weight.
- C. [Amended 10-16-1989 by L.L. No. 4-1989] Office or occupation in dwelling unit. A professional office in a dwelling unit shall consist of the office of a member of a recognized profession to which the public is invited or may visit. A customary home occupation shall consist of a home industry such as dressmaking, tailoring, cooking and products of arts and crafts customarily conducted in a dwelling unit. Such offices and occupations are an additional use for which a certificate of occupancy is required under this chapter, and each such use shall conform to the following conditions:
 - (1) The person or persons conducting the occupation shall be a member of the family occupying the dwelling unit; there shall be no more than two (2) nonfamily members or nonresident persons engaged in the occupation at any time.
 - (2) The floor area used for such occupation shall not exceed an area equal to twenty percent (20%) of the floor area of the dwelling unit or four hundred (400) square feet, whichever is less.
 - (3) No finished consumer goods shall be acquired outside the dwelling unit for sale on the premises in connection with such occupation.

- (4) There shall be no evidence of the occupation outside the building in which it is located, except one (1) sign of the type permitted under §§ 188-44 through 188-51 and identifying only the name of the occupant and the activity conducted.
 - (5) The occupation and the conduct thereof shall not impair the residential character of the premises nor impair the reasonable use, enjoyment and value of other residential property in the neighborhood.
 - (6) The application for a certificate of occupancy shall be signed by the person or persons proposing to conduct the occupation and shall be accompanied by a detailed description of the proposed use. Each such certificate of occupancy shall automatically terminate when the applicant no longer resides in the dwelling unit.
- D. Letting of rooms. The letting of rooms in a dwelling unit shall be limited to not more than two (2) persons. The person or persons letting the rooms shall reside in the dwelling unit. The letting of rooms shall not include the provision of cooking facilities in or for such rooms but may include furnishing of board or sharing of the cooking facilities of the dwelling unit.

ARTICLE VI

Administration and Enforcement

§ 188-53. Appointment of enforcement officer.

Zoning Enforcement Officer. This chapter shall be administered and enforced by the Zoning Enforcement Officer who shall be appointed by the Village Board. The Village Board may appoint deputy zoning enforcement officers to assist and act for the Zoning Enforcement Officer. The Village Board may by resolution adopt rules, procedures and forms necessary for the administration and enforcement of this chapter.

§ 188-54. Application requirements.

Each application for a certificate of occupancy and building permit shall be submitted to the Zoning Enforcement Officer and shall be accompanied by the following:

A. Plot plan.

- (1) Two (2) copies of a plot plan, drawn approximately to scale, showing all of the following information, both existing and proposed.
 - (a) The area of the lot and the dimensions and angles or bearings of all boundaries of the lot and of any easements, encroachment lines, building lines and open space reservations upon the lot.
 - (b) The location, setbacks, dimensions, height, use, floor area and ground coverage of all buildings and other structures.
 - (c) The location, number, area and dimensions of off-street parking and loading spaces, any construction, including paved areas, proposed in connection therewith and the means of access to such spaces.

- (d) The location of any water supply well site and any private sewage disposal system.
 - (e) The location of watercourses, water bodies and wetlands.
 - (f) The location, area and dimensions of any signs.
 - (g) Such additional information as may be necessary to determine compliance with the provisions of this chapter.
- (2) The plot plan is not required for interior alterations of an existing building, for exterior alterations of an existing building when there is no enlargement or extension of floor area nor for buildings, structures or improvements having a value of less than one thousand dollars (\$1,000.) unless the Zoning Enforcement Officer finds that a plot plan is necessary in order to determine compliance with this chapter. The Zoning Enforcement Officer may require that plot plans accompanying applications which pertain to a nonconforming building, structure or lot be prepared by and bear the seal of a land surveyor or professional engineer licensed to practice in the State of New York.
- B. Site development plan. For uses permitted in a district subject to submission and approval of a site development plan, a site development plan submission shall be made as provided in §§ 188-30 through 188-36 and may be substituted for the plot plan specified in Subsection A above.
- C. Additional information. When requested by the Zoning Enforcement Officer, the application shall also be accompanied by other plans, drawings, data and documents necessary for him to determine compliance with the provisions of this chapter.

§ 188-55. Notification.

When an application for a certificate of occupancy and a building permit may be approved only after submission and approval of a site development plan, the Zoning Enforcement Officer shall promptly notify the Village Board, in writing, that such an application has been received and shall transmit a copy of the application and the site development plan submission to the Planning Board.

§ 188-56. Approval and issuance of permits and certificates.

The Zoning Enforcement Officer shall approve an application for a certificate of occupancy and issue a building permit under this chapter when such officer determines that the proposed use, buildings, other structures and development conform to the provisions of this chapter. One (1) copy of the plot plan shall be returned by the Zoning Enforcement Officer to the applicant. Within ten (10) days after notification by an applicant that the premises are ready for occupancy, the Zoning Enforcement Officer shall issue or deny a certificate of occupancy. The following are also applicable to the approval of applications and issuance of building permits and certificates of occupancy:

- A. Conditions. The approval of an application for and issuance of a building permit or certificate under this chapter shall be conditioned upon establishment of the use and the

construction of buildings, structures and site development in accordance with any maps, plans, documents and statements approved by the Planning Board or Zoning Board of Appeals, as applicable, including any modifications, conditions and applicant stipulations that are part of such approval.

- B. **Staking.** No building permit shall be issued by the Zoning Enforcement Officer for any new construction until the applicant has accurately placed stakes or markers on the lot indicating the location of proposed construction and areas not to be disturbed. The Zoning Enforcement Officer may require the applicant to place stakes or markers on the lot indicating the location of lot lines and may require the placement of stakes or markers to be made and certified by either a land surveyor or professional engineer, licensed to practice in the State of New York.
- C. **Measurements.** If deemed necessary to determine compliance with this chapter and before issuance of a certificate of occupancy, the Zoning Enforcement Officer may require the applicant to furnish measurements of any construction features subject to the requirements of this chapter, including setback distances, which measurements shall be prepared and certified by a land surveyor licensed to practice in the State of New York.
- D. **Sanitation.** Where a proposed use or a proposed building or other structure involves the installation, extension, relocation or reconstruction of a sewage disposal or water supply system, no building permit shall be issued until plans for such system have been approved by the county, state or any other regulatory agency having jurisdiction as required by law; no certificate of occupancy shall be issued until such system has been completed and approved by such agency as required by law.
- E. **Temporary certificate.** Upon certification by the applicant that the public health and safety will not be impaired and that there will be compliance with all other laws pertaining to health and safety, the Zoning Enforcement Officer may issue a temporary certificate of occupancy under this chapter having a duration of not more than six (6) months and renewable only for one (1) additional six-month period, for the temporary use of land, buildings and other structures in the process of improvement and completion in accordance with an approved building permit, provided that all projected water supply, sewage disposal and electrical work has been completed and certified.
- F. **Other permits.** Issuance of a building permit and certificate of occupancy shall not be construed to constitute compliance with any other regulations or law nor to relieve the applicant from responsibility to obtain a permit thereunder. The Zoning Enforcement Officer may at his discretion withhold issuance of a building permit or certificate until any such permit has been obtained by the applicant.

§ 188-57. Fees.

The Village Board may from time to time by resolution adopt a schedule of fees²² concerning applications, inspections, petitions and other matters specified in this chapter.

²² Editor's Note: See Ch. A191, Fees.

§ 188-58. Inspections and orders.

The Zoning Enforcement Officer is authorized to inspect or cause to be inspected any land, building or other structure to determine compliance with this chapter. The Zoning Enforcement Officer is authorized to issue a stop-work order if in his judgment the use of land, buildings and other structures or the construction, reconstruction, enlargements, extension, moving or alteration of a building or other structure or site development are not being carried out in compliance with this chapter, including the approvals hereunder; he shall withdraw such order when he determines that there is compliance with this chapter, including such approvals. The Zoning Enforcement Officer is authorized to order, in writing, the remedying of any condition found to be in violation of this chapter, including approvals hereunder.

§ 188-59. Complaints.

The Zoning Enforcement Officer shall investigate all written complaints of violation of this chapter and shall maintain a file thereof and the action taken thereon.

§ 188-60. Zoning Board of Appeals established; powers and duties.

The Zoning Board of Appeals, consisting of five (5) members, is continued as established pursuant to § 7-712 of the Village Law. The Zoning Board of Appeals shall have the powers and duties prescribed by the Village Law and this chapter, including the following:

- A. To hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer, which appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Village of Nelsonville.
- B. In passing upon appeals and where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, to vary or modify the application of any of the regulations and provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of this chapter is observed, public safety and welfare secured and substantial justice done.
- C. To hear and decide all matters referred to the Board or upon which the Board is required to pass under this chapter.

§ 188-61. Procedures.

The Zoning Board of Appeals shall carry out its powers and duties as prescribed by the Village Law and shall, subject to the approval of the Village Board, adopt rules and procedures for the filing of appeals, conduct of meetings and hearings and other matters pertaining to the proceedings of the Board.

§ 188-62. Amendments.

This chapter, including the Zoning Map²³ which is a part hereof, may from time to time be amended, supplemented, changed, modified or repealed by the Village Board on its own initiative, on recommendation of the Planning Board or on petition. Any such amendment or change may be adopted by local law after due notice and public hearing as required for adoption of zoning laws under the Village Law.

§ 188-63. Referral to Planning Board.

Any proposal to amend, supplement, change, modify or repeal this chapter or any part thereof shall be referred by the Village Board to the Planning Board for a report thereon prior to any public hearing, unless such proposal is the recommendation of the Planning Board.

§ 188-64. Petitions.

Any person may petition the Village Board to amend, supplement, change, modify or repeal this chapter, including the Zoning Map which is a part hereof. It is within the discretion of the Village Board to decide whether or not the request of the petition has sufficient merit to be proposed for adoption by local law after due notice and hearing. Any petition that is accepted by the Village Board for consideration for adoption shall be signed and shall be accompanied by the following:

- A. For petitions concerning the text of this chapter, ten (10) copies of the existing and proposed text shall be submitted.
- B. For petitions concerning the Zoning Map, three (3) copies of a map shall be submitted, drawn to a scale of not less than two hundred (200) feet to the inch, covering the area of the proposed change and all area in the village within five hundred (500) feet of the proposed change, and showing for such area the existing and proposed zoning district boundary lines, the existing property lines and the names of the current property owners as indicated in the current Town of Philipstown Assessor's records.
- C. A petition fee shall be secured as determined under §§ 188-53 through 188-59.

§ 188-65. Penalties for offenses; remedies.²⁴

Any violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for a period not to exceed fifteen (15) days, or both. Each week's continued violation shall constitute a separate additional violation. The proper authorities of the Village of Nelsonville may institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this chapter.

²³ Editor's Note: The Zoning Map is located at the end of this chapter.

²⁴ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 188-66. Validity; conflict with other provisions.

- A. If any Article, section, paragraph or provision of this chapter is declared by a court of competent jurisdiction to be invalid, the effect of such decision shall be limited to the Article, section, paragraph or provision expressly stated in the decision to be invalid, and all other Articles, sections, paragraphs or provisions of this chapter shall continue to be valid and fully effective.
- B. If any Article, section, paragraph or provision of this chapter is declared by a court of competent jurisdiction to be invalid as applied to a particular building, structure or lot, the effect of such decision shall be limited to the particular building, structure or lot, and the general application of such Article, section, paragraph or provision to other buildings, structures or lots shall not be affected.
- C. It is the specific intent of this chapter to supersede the provisions of New York State Environmental Conservation Law § 17-0509 and any rules and regulations enacted by the New York State Department of Environmental Conservation in accordance therewith to the extent that they may authorize a lesser degree of treatment than required in this chapter. This chapter is enacted pursuant to the provisions of the Municipal Home Rule Law. [Amended 7-13-1992 by L.L. No. 2-1992]

